



## Colorado Clean Energy Fund (CCEF) CONTRACTOR PARTICIPATION AGREEMENT

This Contractor Participation Agreement ("**Agreement**") is entered into as of the date signed by Contractor ("**Effective Date**"), by and between Contractor named on the Signature Page of this Agreement ("**Contractor**") and the Colorado Clean Energy Fund, a Colorado nonprofit corporation ("**CCEF**"). Contractor and CCEF shall each be referred to individually as the "Party", and collectively, the "Parties." "Customer" means the recipient of Contractor's services as set forth in this Agreement.

### RECITALS:

- A. This Agreement sets forth the terms and conditions for Contractor's participation in CCEF Loan Programs, specifically the Colorado RENU Loan Program and the Tariff On-Bill Repayment Program for Residential Contractors and the CCEF Commercial Loan Program for Commercial Contractors (collectively, the "**Programs**" and individually, the "**Program**"). The Programs are sponsored by CCEF.
- B. If CCEF authorizes Contractor's participation in the Programs, Contractor agrees to provide the work ("**Services**") to be performed under the Program for each separate Customer (the "**Project**"), and to be bound by all of the terms and conditions set forth in this Agreement.

### TERMS AND CONDITIONS

NOW, THEREFORE, the parties agree as follows:

1. PROGRAM REQUIREMENTS. Contractor must comply with the respective Program guidelines and requirements to remain a Program-authorized contractor in good standing. CCEF may amend this Agreement and other Program forms periodically to account for changes in the Programs, demographic changes, or the needs of the Customers. The Program guidelines and requirements for each specific program may be found here: <https://cocaleanenergyfund.com/contractors>.
  - a. Amendment of Program Requirements. CCEF will provide written notice of any amendments to the program guidelines to Contractor thirty (30) days prior to the effective date of the amendment. Unless Contractor explicitly opts out of any updated Program forms or other amendments, Contractor shall be deemed to have accepted such updated Program forms or other amendments. If Contractor provides written notice of its opt-out of any updated Program forms or other amendments prior to the effective date of such changes, Contractor shall be deemed to terminate its participation in the Programs.
2. PROGRAM ELIGIBILITY. CCEF shall have the sole discretion to determine Contractor's eligibility requirements in the Program or Programs based, in part, on Contractor's Application. At any time during the term of the Program, CCEF may request from Contractor, and Contractor shall provide verification of its eligibility requirements in the Program.
3. ELIGIBLE CUSTOMERS. To be eligible for participation in the Program, any Customer must be a US Citizen or Permanent Resident, Customers must own and occupy the home to be improved, the home must be located within the state of Colorado, and the Customer must reside in the state of Colorado. The Financial Institution providing financing for a Project will establish the underwriting criteria to be used in evaluating the creditworthiness of Customers for Loans. Such criteria may from time to time be changed by CCEF or the Financial Institution providing financing in their sole discretion, without notice to Contractor.



4. PERFORMANCE OF SERVICES. Contractor will perform the Services in accordance with the terms of this Agreement and all other Program documents furnished by CCEF. Except as otherwise provided, Contractor will have exclusive control over the manner and means of performing the Services, including the choice of place and time, and will use its expertise and creative talents in performing the Services. Contractor will provide, at its own expense, all equipment, tools, and other materials necessary to complete the Project.

5. THIRD PARTY BENEFICIARIES. Contractor understands and agrees that with respect to the execution of this Agreement CCEF is also acting on behalf of specific Financial Institutions participating as lenders in the Programs to finance qualifying individual Projects undertaken under the Programs. Contractor agrees that the benefits of any representations, warranties, obligations and remedies, specifically including but not limited to the obligation for indemnification with respect to any Project will also extend to such Financial Institution providing financing for each Project notwithstanding that such Financial Institution is not a signatory to this Agreement. Accordingly, Contractor acknowledges and understands that a participating Financial Institution providing financing for all or part of a Project may enforce the terms and conditions of this Agreement to the same extent as CCEF, and that each Financial Institution has granted CCEF authority to represent it in the enforcement of this Agreement, at CCEF's sole discretion.

6. TERM. Authorized contractor status will commence upon confirmation of approval from CCEF following review of the Contractor's Application and this Agreement, which will be confirmed by written notice to Contractor ("**Commencement Date**"), and will continue upon occurrence of one of the following:

- a. Termination of this Agreement in writing by either Party, at any time, and for any reason. Notwithstanding Section 6(c), the terminating Party shall provide the other Party with no less than 30 calendar days written notice prior to the effective date of the termination.
- b. CCEF may terminate this Agreement if the Contractor has not participated in the Programs (e.g., has not submitted any loan applications or provided Services to a Customer) in a 12-month period from the Commencement Date.
- c. At the sole discretion of CCEF, certain Contractor actions are grounds for immediate termination and removal from the Programs, including, but not limited to: (i) Contractor defrauding a Customer or the Programs, or (ii) Contractor breaching the terms of this Agreement. Termination of this Agreement does not release the Contractor from any of the Contractor's responsibilities or liabilities related to loans and Customer contracts arising before the termination, unless the Programs and the Customer expressly agree in writing to release Contractor from those responsibilities or liabilities.
- d. In the case of a Contractor participating in the On-Bill Repayment Program, CCEF may terminate Contractor immediately upon written notice if the Quality Assurance Designee finds Contractor's workmanship and quality do not meet industry standards, Contractor was provided an opportunity to cure the defects, and Contractor failed to cure such defects within the time prescribed by the Quality Assurance Designee. In such an event, CCEF may retain the remainder of any monies allocated to, and not expended on, a Project for which Contractor was terminated.

7. CODES AND LICENSING. Contractor shall comply with and conform to all federal and State statutes, all local laws, rules, codes, and ordinances applicable to its business, and the Services provided by the Contractor under the Programs.

8. REPRESENTATIONS AND WARRANTIES. In addition to all warranties provided in any other agreement between CCEF and Contractor, or between Contractor and any other party connected to the Project,



the Contractor hereby represents and warrants to CCEF, the following:

- a. The Contractor is the sole and unconditional owner of the materials and equipment being incorporated into the Project, and that such materials and equipment are not subject to any lien, pledge or security agreement other than the security agreement in favor of the Financial Institution providing financing for the Project (if any).
- b. The Contractor has taken all actions under its organizational documents, including the passage of resolution by its Board of Directors, Trustees, Partners, Members, or other governing body required to enter into this Agreement and to carry out the terms and conditions of this Agreement and the individual or individuals executing this Agreement on behalf of the Contractor have the authority to do so.
- c. Contractor is properly and lawfully organized as a corporation, partnership, limited partnership, limited liability company, or is a sole proprietorship, and is properly licensed and qualified to do business, and is in good standing in Colorado. Contractor has and shall maintain and keep in effect all required rights and licenses required for the conduct of its business, and shall carry on its business in a lawful manner. Except as is otherwise disclosed to CCEF in writing prior to the execution of this Agreement, Contractor's licensing is not currently under any disciplinary action or review.
- d. Contractor represents and warrants that Contractor shall: (i) Not permit a third party, including any affiliate of Contractor, to use the Program using Contractor's name; (ii) submit a final invoice or sales slip which clearly itemizes the Eligible Improvements and their cost; (iii) submit a Completion Certificate Form signed by the Customer as a condition precedent to the disbursement of any funding being provided for all or any part of a Project by a participating Financial Institution; (iv) refrain from asking any Customer to sign a Completion Certificate Form that includes a statement that the Eligible Improvements have been completed to the Customer's satisfaction in advance of the Eligible Improvements full completion; (v) ensure that any subcontractor working on Eligible Improvements, as defined in the CCEF Eligible Measures list at <https://cocaleanenergyfund.com/contractors/>, funded in whole or part by a participating Financial Institution is properly licensed; and (vi) use commercially reasonable efforts to resolve any Customer complaints in a timely manner. Any violation of the foregoing business practices may result in the immediate termination of Contractor from the Program.
- e. Each Customer is a bona fide individual or company, and is of the age of majority and has the legal capacity to enter into a contract with Contractor; or if a company, is duly formed, is in good standing under applicable law, and has the capacity and authority to enter into a contract with Contractor. Contractor has verified the true identity of each Customer.
- f. Contractor shall promptly provide CCEF with all necessary and pertinent information requested by CCEF or any Financial Institution providing financing for the Project with respect to Contractor's execution of any agreements related to the Project with a Customer.
- g. Prior to the commencement of the Project Contractor shall have obtained all required permits related to or required for the Project.
- h. The statements of each Customer in any application or materials collected by Contractor, and all documents delivered or provided to CCEF or any Financial Institution providing financing for the project, are true and correct. The goods and services sold and delivered to the Customer are adequately and correctly described in the agreements and materials provided by Contractor to the Customer, without any overstatement; and any down payment remitted by the Customer and the total cost of the Project and the portion thereof financed is as stated in such documents.



- i. Contractor has made all disclosures and given all notices to each Customer required by applicable federal or state law.
- j. The Contractor has not made any agreement with a Customer affecting CCEF's rights or obligations, or the rights of any Financial Institution providing financing for the Project, without CCEF's prior written consent.
- k. All warranties whether express or implied, by law or custom, and all services contracted for were or will be performed as agreed and in a workmanlike manner.
- l. That the signature of the Customer(s) are authentic and genuine.
- m. Without limitation: (a) Contractor and its employees shall not discriminate in any respect against any Customer or potential Customer on a prohibited basis (as defined under any federal, state or local Equal Credit Opportunity Act or similar law); and (b) Contractor shall fully indemnify CCEF from any and all liability to which CCEF may be exposed as a result of Contractor's discriminatory or prohibited acts and practices

Each of these warranties and representations is material to CCEF's decision to allow Contractor to participate in the Program. The warranties and representations set forth in this Agreement shall be binding upon Contractor regardless of any limitations of warranties, if any, contained in any agreements executed between Contractor and Customer.

9. INDEPENDENT CONTRACTOR. Contractor shall perform its duties hereunder as an independent contractor and not as an agent, representative, or employee of CCEF or the Programs. Neither Contractor nor any agent, representative, or employee of Contractor shall be deemed to be an agent, representative or employee of CCEF or the Programs. Contractor and its agents, representatives and employees are not entitled to unemployment insurance or workers compensation benefits through CCEF and CCEF shall not pay for or otherwise provide such coverage for Contractor or any of its agents, representatives or employees. Unemployment insurance benefits will be available to Contractor and its agents, representatives and employees only if such coverage is made available by Contractor or a third party. Contractor shall pay all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Contractor shall not have authorization, express or implied, to bind CCEF to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall (i) provide and keep in force workers' compensation insurance, (ii) provide proof thereof when requested by CCEF, and (iii) be solely responsible for its acts and those of its representatives, agents and employees. Contractor acknowledges that Contractor voluntarily participates in the Programs to deliver the Services as outlined by the Programs directly to Customers. This Agreement shall not create a partnership or a joint venture between Contractor and CCEF. Contractor may not claim association or affiliation with CCEF or the Programs in any capacity other than as an authorized independent contractor.

10. SUBCONTRACTING. Authorized contractors may subcontract work to other entities that are not authorized with CCEF, provided that the subcontracted entity is appropriately qualified and has required licenses. CCEF reserves the right to audit authorized contractors to review subcontractor licensing. Subcontracted work is subject to quality assurance (QA) review, and the authorized contractor initiating the project will be responsible for responding to any corrective actions required resulting from the QA review.

11. INSURANCE AND LICENSING. Contractor shall have and must maintain commercial general liability insurance and workers' compensation insurance for their business in such amounts as specified in the Application. Each certificate of insurance shall list CCEF as a certificate holder or additional insured, a copy of which must be provided to CCEF. At all times during the term of this Agreement, Contractor, and its agents and subcontractors, shall retain all necessary licenses, certification, training, and other requirements as deemed



necessary by State law, the Program's policies and guidelines, and all relevant documentation pertaining to the installation of the energy efficiency measures, and will provide immediate access to such documentation to CCEF upon request. This includes, but is not limited to, appropriate liability insurance, permits, licensure, or certification information, as well as installed equipment models and serial numbers.

12. AUTHORIZATION. The individual signing on behalf of the Contractor represents that it has the authority to enter into this Agreement.

13. CONTRACTOR CONDUCT. Contractor shall not knowingly misrepresent any information concerning the Programs, its purpose, policies, incentives, and procedures, or its role in the Programs or relationship with CCEF to Customers or any third-party. Contractor shall not make false claims about performance or savings, nor engage in fraudulent or deceitful conduct in the sale or installation of measures. Any such conduct may be grounds for immediate termination and any other remedies available to CCEF hereunder.

14. USE OF INTELLECTUAL PROPERTY. Contractor shall not use the trademarks, logos, copyrighted information, or other intellectual property of CCEF or the Programs without prior written approval by CCEF. Any violation of this Section shall be grounds for immediate termination and any other remedies available to CCEF hereunder.

15. NO ENDORSEMENT. This Agreement does not constitute an endorsement by CCEF or the Programs of the Contractor or the Contractor's work.

16. QUALITY ASSURANCE VERIFICATION. A representative of CCEF, its Quality Assurance Designee, or a third-party partner may audit and monitor a portion of the Programs' Services performed by Contractor to ensure compliance with the Program's requirements. Contractor agrees to cooperate with CCEF's quality assurance verification process as may be requested from time to time. Contractor shall remedy any issue(s) arising from quality control inspections at no additional cost to the Customer within the timeframe provided by the CCEF or the specific Programs. CCEF, or its Quality Assurance Designee, may perform quality control on any or all Services performed by Contractor, with or without notice to Contractor, and by any means CCEF or its Quality Assurance Designee may select, including accompanying Contractor to a Customer's location. Contractor shall use its best efforts to obtain Customer cooperation in allowing CCEF or its Quality Assurance Designee access to the Customer's location for this purpose. Contractor's failure to meet quality requirements and standards will be grounds for termination of this Agreement.

17. INDEMNIFICATION. Contractor will indemnify and defend CCEF and its affiliates, officers, directors, employees, and agents from and against any and all liabilities, losses, damages, costs, and other expenses (including attorneys' and expert witnesses' costs and fees) arising from or relating to any breach of any representation, warranty, covenant, or obligation of Contractor in this Agreement or in the Program, or any intentional misconduct, negligence, or failure to perform the contracted work by Contractor or any of its employees, agents, or subcontractors in performing the Services. In the event of any third-party claim, demand, suit, or action (a "**Claim**") for which CCEF (or any of its affiliates, officers, directors, employees, or agents) is or may be entitled to indemnification hereunder, CCEF may, at its option, require Contractor to defend such Claim at Contractor's sole expense. Contractor may not agree to settle any such Claim without CCEF's express prior written consent. CCEF shall be entitled to offset any amounts due under this Section 17 against the amount of any unpaid Compensation under this Agreement or any Project.

18. CONFIDENTIALITY. In consideration of the mutual covenants and promises of the parties contained herein and in any other agreement(s) between the parties, Contractor agrees:

- a. Contractor will use any Confidential Information received from CCEF, a Customer or a participating Financial Institution, including but not limited to Consumer account information and personally



identifiable financial information as defined by 12 CFR §1016 (“Confidential Information”), only to perform its obligations under the Agreement and will not use Confidential Information for any other purpose.

- b. Contractor will protect all Confidential Information in the same manner that is used to protect its own similar Confidential Information, and represents and warrants its compliance with all applicable requirements of 12 CFR §1016; and any other specifically applicable state and federal laws and regulations governing the protection of consumer and other confidential information whether existing now or in the future.
- c. Except as, and to the extent required by law and as permitted by Section 18(a) above, Contractor will not disclose or use, and will direct its directors, officers, employees, agents, consultants, advisors, and other representatives including legal counsel, accountants and financial advisors (together referred to herein as “representatives”), not to disclose or use, any Confidential Information, and all parties will limit access to the Confidential Information only to their representatives involved in performing obligations under the Agreement.
- d. Contractor will at all times ensure that all Confidential Information in a safe and secure manner pursuant to the requirements of applicable laws, rules and regulations applicable to Contractor and financial institutions generally, including 12 CFR §748, the Appendices thereto and to any Interagency Guidelines from FFIEC and other applicable government regulators, which address information security, privacy and response programs and obligations. Furthermore, all confidential information shall be afforded all of the protections against unauthorized disclosure set forth in the Colorado Uniform Trade Secrets Act, C.R.S. §7-74-101 et. seq.
- e. Contractor will implement policies/procedures commensurate with 12 CFR §748 and take appropriate actions to address incidents of unauthorized access that involve or affect Confidential Information; and shall notify CCEF and any involved financial institution within one (1) business day of any such incident.

19. NOTICES AND REPRESENTATIVES. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered by email. Notice to CCEF shall be addressed as follows:

Attn: CCEF Contractor Network  
Email: [contractors@cocleanenergyfund.com](mailto:contractors@cocleanenergyfund.com)

Notice to the Contractor shall be via email to the primary contact listed in the Application. Either Party may change its primary contact or primary contact’s information by notice submitted in accordance with this Section 16 without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

20. LIMITATION OF LIABILITY. CCEF WILL NOT BE LIABLE TO THE CONTRACTOR OR ANY OTHER PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, OR OTHER DAMAGES, DIRECT OR INDIRECT, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST USE, LOST PROFITS, TO EQUIPMENT INSTALLED, TO PROPERTY, OR CLAIMS OF A THIRD PARTY. THESE LIMITATIONS APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.

21. DISPUTES.

- a. Customer Disputes. Disputes concerning Contractor’s or its subcontractor’s performance with a Customer will attempt to be settled amicably with the Customer. Nevertheless, CCEF and the Programs





shall have no responsibility to provide dispute resolution assistance between the Contractor and a Customer.

- b. Contractor Disputes. Except as may otherwise be provided in this Agreement, any dispute concerning the contents of this Agreement, if it cannot be settled through direct negotiation, shall first be submitted to mediation according to the terms specified below. All parties agree to try in good faith to settle the dispute by mediation before resorting to arbitration.

i. Any party that wishes to have a dispute mediated shall submit a written request for mediation to the other party. Mediation shall commence within 15 days after the date of the written request for mediation. Any decision reached by mediation shall be reduced to writing, signed by all parties, and shall be binding on each party. The costs of mediation shall be shared equally by the parties. Each party shall cooperate fully and fairly with the mediator in any attempt to reach a mutually satisfactory compromise to a dispute.

ii. If the dispute is not resolved within 30 days after it is referred to the mediator, the dispute shall be submitted for arbitration according to the terms specified below or on terms agreeable to the parties at the time the dispute is submitted to arbitration. To the maximum extent permitted by law, all disputes, controversies, claims, or demands of any kind or nature arising between the parties in connection with this Agreement, whether at law or in equity or based upon common law or any federal or state statute, rule, or regulation will be resolved through binding arbitration. Any arbitration commenced hereunder shall be initiated in Denver, Colorado and shall be governed by the Rules of the American Arbitration Association (the “**AAA**”) from time to time in force. This submission and agreement to arbitrate shall be specifically enforceable.

iii. The arbitration shall occur before a single arbitrator that shall be mutually agreed upon by the parties (the “**Arbitrator**”). If the parties cannot agree on a single arbitrator, then an arbitrator shall be selected in accordance with the rules of the AAA.

22. REMEDIES. CCEF’s remedies for any breach of this Agreement by Contractor will include damages, injunctive relief, specific performance, and restitution. Contractor acknowledges that any breach of this Agreement by Contractor would cause irreparable injury to CCEF for which monetary damages would not be an adequate remedy and, therefore, CCEF will be entitled to injunctive relief (including specific performance). The rights and remedies provided to each party in this Agreement are cumulative and in addition to any other rights and remedies available to such parties at law or in equity.

23. COUNTERPARTS. This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

24. SURVIVAL. All covenants, conditions, agreements, representations and warranties made herein, including but not limited to the indemnity obligations set forth herein, shall survive the termination or expiration of this Agreement for purposes of subsequent enforcement.

25. JURISDICTION AND VENUE. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

26. MODIFICATION. Except as otherwise provided in this Agreement, CCEF may modify this Agreement upon thirty (30) days written notice to the Contractor.



27. NO ASSIGNMENT. Neither party may assign this Agreement without the prior written consent of the other party.

*[signature page follows]*



**CONTRACTOR AGREED AND ACCEPTED**

I have read, understand and agree to comply with the Contractor Participation Agreement and the Terms and Conditions for Participating Contractors and certify that the information I have provided is true and correct.

Signature:

Date:

Name (printed):

Title:

**COLORADO CLEAN ENERGY FUND AGREED AND ACCEPTED**

Signature:

Date:

Name (printed):

Title:

*[signature page to Contractor Participation Agreement]*