

**CAPE LIGHT COMPACT JPE**  
**REQUEST FOR PROPOSALS**  
**FOR ENERGY RELATED SERVICES**

**SECTION 1. GENERAL OVERVIEW**

A. Background

The Cape Light Compact JPE (the “Compact”) is a regional energy services governmental organization comprised of and serving its twenty-one towns of Cape Cod and Martha’s Vineyard. The Compact is a joint powers entity and municipal aggregator pursuant to M.G.L. c. 40, §4A ½ and M.G.L. c. 164, §134. More information about the Compact is available at <https://www.capelightcompact.org>.

The Compact’s mission is to serve its 205,000 customers through the delivery of proven energy efficiency programs, effective consumer advocacy and renewable competitive electricity supply.

The Compact is operating an Energy Efficiency Plan which is periodically updated and approved by the Massachusetts Department of Public Utilities.

Through this Request for Proposals (“RFP”), the Compact seeks energy related services related to implementation of its energy efficiency programs.

B. Project Overview/Scope of Work

The Compact’s Chief Procurement Officer hereby requests the Proposal from qualified professionals to provide Managed Service Provider (MSP) services including active monitoring and Endpoint Detection and Response (EDR) (the “Project”).

See Attachment A to this RFP for more details on the Project and Scope of Work requested.

The Compact is strongly committed to ensuring that the Project provides opportunities for businesses and individuals who historically have been underrepresented in the energy efficiency contracting field. In accordance with applicable laws, the Compact seeks proposals that incorporate participation by minority-owned and women-owned business enterprises (“M/WBEs”) in as many aspects of the Project as possible. In issuing this RFP, the Compact reviewed the Massachusetts Supplier Diversity Office (“SDO”) list of certified businesses to identify potential Proposers.

**SECTION 2. RFP SCHEDULE AND RELATED MATTERS**

A. RFP Schedule

The following is a schedule noting target dates for phases and tasks to be completed:

|                |   |
|----------------|---|
| March 14, 2023 | Publication of RFP advertisement        |
| March 14, 2023 | RFP issued                              |
| March 29, 2023 | Informational conference call           |
| March 29, 2023 | Written inquiries due                   |
| March 31, 2023 | Responses to inquiries posted           |
| April 12, 2023 | Proposals due no later than 2pm Eastern |
| May 3, 2023    | Interviews scheduled                    |
| May 15, 2023   | Vendor selected                         |
| May 24, 2023   | Kick-off meeting                        |
| June 1, 2023   | Project implementation                  |

B. Questions and Clarifications

Questions or clarifications related to this RFP must be submitted to the Chief Procurement Officer in writing prior to the deadline stated above in order to afford the Compact adequate time to respond with a correction or additional information prior to the deadline for submission of Proposals. Requests for clarification or interpretation must specifically reference the relevant RFP section number, unless such request is of general application (in which case the request for clarification should so note). Should it be found necessary or useful, a written addendum will be incorporated into this RFP. Parties who have received a copy of this RFP will be notified of issuance of an addendum.

C. Interviews

The Compact may elect to interview Proposers in person or via Zoom teleconference. In the event that the Compact elects to do so, interviews shall be given to the top three Proposers ranking highest in comparative evaluation criteria as set forth in this RFP. The Compact strongly recommends that the key staff as designated in its Proposal represent the Proposer at the interview presentation.

D. Notification of Contract Award

All Proposers will be notified of the contract award decision within 40 days of the date Proposals are due to the Compact unless otherwise notified by the Compact. In no case will the award be made beyond forty-five (45) days unless Proposer agrees to extend the period of time in which its Proposal is valid.

If a contract is not executed by the chosen Proposer by May 24, 2023, the Compact reserves the right to negotiate with alternative Proposer(s) in order to execute contracts by June 1, 2023.

**SECTION 3. GENERAL QUALIFICATIONS**

The following general qualifications apply to all vendors engaged by the Compact and Proposers who cannot meet these requirements should not submit Proposals:

A. The Proposer must be organized or registered to do business in Massachusetts, and in good standing with the Secretary of the Commonwealth.

B. The Proposer must be an individual or established business, corporation, partnership, sole proprietorship, limited liability company, joint venture, firm, agency, or other entity engaged in the regular practice of providing such services as the principal business for which the entity was organized.

C. The Proposer must have all necessary current licenses and registrations required to perform the requested services.

D. The Proposer cannot be debarred under M.G.L. c. 149, §44C, or disqualified under M.G.L. c. 7, §38H, as applicable.

E. The Proposer must be able to demonstrate that it is financially solvent.

#### **SECTION 4. SPECIFIC QUALIFICATIONS**

The Compact has identified the following specific qualifications that are unique to the Project. Proposers who cannot meet these requirements should not submit Proposals:

- Proposer must have a minimum of two (2) similar projects or equivalent experience during the past five (5) years in Massachusetts.
- Proposer must be a Microsoft-Certified Solution Provider and a Cisco/Meraki partner in good standing

#### **SECTION 5. CONTRACT**

The Compact's standard form of agreement is set forth as Attachment B to the RFP (the "Contract"). The Compact reserves the right during Contract negotiations to expand, modify, supplement and/or add to the form of Contract.

The Contract has an initial term of 2 years with an option to extend for 1 year.

The following Contract terms are considered to be material and are generally non-negotiable:

- 1.2 Termination
- 1.3 Termination or Suspension Due to Changes in Funding
- 2.5 Conflicts of Interest
- 2.7 Safety
- 3.1 Prevailing Wage (applicable sentences)
- 3.6 Bonds (to be determined by Compact staff)
- 7 Indemnification

8 Choice of Law and Dispute Resolution  
11.7 Solicitation

If a Proposer believes that a mandatory Contract term will affect its liability risk, it should adjust its contract price accordingly.

Non-mandatory Contract terms may be modified and expanded through negotiations. Proposer must identify the specific language in the Compact's form of agreement that it would like to modify, and submit with its Proposal all requested edits to the Contract.

Proposers may not submit their own standard contract form as a response to this RFP.

## SECTION 6. NON-PRICE PROPOSAL FORMAT AND CONTENTS

### A. Cover Letter and Signature

Proposer must submit a cover letter which includes its business name(s), address and telephone number, signed by someone authorized to sign such documents. Proposer must acknowledge any addenda, if any. All responses must include a statement that the Proposal is in accordance with this RFP and that Proposer has read and understands all sections and provisions herein.

The Proposal cover letter must be signed by an officer or authorized representative who has authority to bind the Proposer to a firm price.

### B. General Background Information

Proposer must provide its full official business name, any other names that it uses to conduct its business, tax identification number, and its main office address.

Proposer must provide a company profile including length of time in business and core competencies.

Proposer must provide the following statements: (i) statement as to whether business or affiliate has commenced, or been forced into, any insolvency proceeding within the last five (5) years; (ii) statement as to whether business or affiliate has been subject to any litigation in the last five (5) years; (iii) statement as to whether business or affiliate has been subject to any investigation by a state or federal agency within the last five (5) years; and (iv) statement as to the number, if any, of consumer complaints filed with a state, federal, or local agency, against the business or affiliate within the last five (5) years. For each event of litigation, investigation or consumer complaint, please provide an explanation.

### C. Staffing Requirements

1. Proposer should identify the Project managers, and all individuals to be assigned to the Project. Describe what each individual's role will be, their duties and responsibilities.
2. Proposer must provide resumes for specific key staff to be assigned to the Project that include education, relevant past experiences, qualifications, licenses, current projects being worked on and any other pertinent information that will assist the Compact in making its selection.
3. Proposer must briefly describe its organizational capacity to provide the services to be rendered in connection with the Project. More specifically, it should briefly describe the percentage of staff that would work on these services relative to its entire staff (using full time equivalents). For example, if Proposer would use one (1) full time staffer on the Project and Proposer has a staff of ten (10), the percentage would be ten percent (10%).
4. The Proposal must include resumes, experience, and qualifications of any proposed subcontractors or consultants that would be utilized by Proposer in the performance of the Contract.
5. Proposer must provide a schematic diagram showing organizational overview including identification of key staff and any supporting vendors or sub-contractors, if applicable.

D. Proposed Scope of Work and Related Experience

1. Scope of Work.

A draft Scope of Work is attached to this RFP as Attachment A. Proposer must submit its proposed edits to the Scope of Work. This should be submitted in redline format. Proposers may include clarifications, enhancements, improvements and additions to the Scope of Work. This proposed Scope of Work will be used as the basis for negotiating the final scope for inclusion in Exhibit A of the Contract, Attachment B to this RFP.

Questions on the draft Scope of Work shall be submitted in accordance with Section 2(B) above.

2. Related Experience.

Proposers should submit statements regarding the following to evidence its experience delivering services to those similar in the Scope of Work:

- a. Other state agencies or municipalities in the Commonwealth of Massachusetts that you provide support for.

- b. Innovative technology solutions that could better deliver MSP and End User Support services.

E. References

Proposer must provide a list of clients that it has performed similar work for in the past three (3) years and any other relevant references with the names and telephone numbers of contact persons for each client.

F. Redlined Contract or Contract Acceptance Letter

Proposer must provide a redlined Microsoft Word version of any requested changes to the form of Contract set forth in Attachment B. It may not request changes to the non-negotiable provisions listed in Section 5. If Proposer is not requesting any changes to the form of Contract, it should submit a letter to the Compact with its Proposal stating that it accepts all of the terms and conditions of the Contract as set forth in this RFP.

G. Supplier Diversity

The Compact encourages supplier diversity among its vendors. Proposers should provide information on its effort to encourage supplier diversity in its workforce and in the selection of subcontractors when permitted.

Proposers are encouraged to submit business diversity certification information in their Proposals. This certification may be from the Commonwealth of Massachusetts, regionally or nationally based organizations and industry sources, including, but not limited to:

National Minority Supplier Development Council (“NMSDC”)  
<http://www.nmsdc.org/nmsdc/>

Small Business Administration 8(a) (“SBA”) or Small Disadvantaged Business (“SDB”) Programs <http://www.sba.gov/>

Women’s Business Enterprise National Council (“WBENC”)  
<http://wbenc.org/>

National Women’s Business Owners Corporation (“NWBOC”)  
<http://www.nwboc.org/>

The National Gay and Lesbian Chamber of Commerce (“NGLCC”)  
<http://www.nglcc.org/>

US Department of Veteran Affairs (“VA”)  
<http://www.va.gov/OSDBU/veteran/verification.asp>

National Veteran Business Development Council (“NVBDC”)  
<http://www.nvbdc.org/>

Massachusetts Minority Contractors Association (“MMCA”)  
<https://www.themmca.org/>

H. Ancillary Documents

Proposer must have signed the Certificate of Non-Collusion (see Attachment C), and all other required Proposal forms (including the Proposal Checklist set forth in Attachment E), and have included them in the Proposal.

I. Other

Any other information that Proposer considers relevant for the purpose of evaluating its qualifications for the Project.

**SECTION 7. SEPARATE PRICING PROPOSAL**

Proposals must include a pricing proposal (“Pricing Proposal”) to be submitted separately as set forth in Section 8(A). A pricing schedule for each scope being proposed, with all labor, overhead, travel, other direct costs associated with the services must be submitted. If Proposer offers a discount for being awarded multiple scopes, its Pricing Proposal should so state. All general and administrative costs must be included in hourly labor rates and direct expenses. These terms apply to subcontractor costs as well.

Pricing Proposals must state if the pricing schedule would remain in effect should the Compact elect to extend the Contract. If Proposer would seek a price increase for any extended term(s), it must state the pricing for such extended term(s) or set forth a formula/price escalation clause to determine such pricing for the extended term(s).

Proposer must submit a pricing bid sheet and clearly note each of the enumerated scopes, including, but not limited to, all labor, materials, and other direct costs for all the services and deliverables to be provided under this RFP.

**SECTION 8. SUBMISSION PROCEDURES**

A. Number of Copies and Format

The Proposal must be submitted as an electronic file in pdf format without the Pricing Proposal component, and one (1) original and three (3) hard copies of the Proposal are also to be submitted separate from the Pricing Proposal.

The Pricing Proposal must be submitted as a separate electronic file in pdf format and it must be clearly designated as the Pricing Proposal, and one hard copy must be submitted in a separate sealed envelope.

Proposers must submit Proposals that are typewritten on 8 ½” x 11” paper and each page must be numbered.

B. Proposal Due Date and Labeling

The Proposal and the Pricing Proposal must be signed and delivered simultaneously to the Compact within the time set forth in Section 2 of this RFP. Proposals and Pricing Proposals must be enclosed in sealed envelopes and marked as follows:

|                  |   |
|------------------|---|
| RFP Title:       | MSP Services for Cape Light Compact   |
| Proposer's Name: | [insert]  |
| Delivered to:    | Cape Light Compact JPE<br>261 Whites Path, #4<br>South Yarmouth, MA 02664<br>Attention: Margaret Downey<br><a href="mailto:mdowney@capelightcompact.org">mdowney@capelightcompact.org</a><br>Cape Light Compact JPE Chief Procurement Officer |

The envelope of the Pricing Proposal must be clearly marked as “Separate Pricing Proposal” and Proposer’s name must also appear on the envelope.

C. Modification or Withdrawal of Proposals

A Proposer may correct, modify or withdraw its original Proposal on or before the date and time set forth in Section 2. Corrections or modifications must be in sealed envelopes, clearly marked to indicate the contents, with the name and address of Proposer. Any late correction or modification to the Proposal will not be accepted. Proposers who wish to withdraw a Proposal must make a request in writing.

D. Late Proposals

Any Proposal received after the due date and time stated in Section 2 will be deemed non-responsive and will not be opened. Unopened Proposals will be returned to Proposer.

E. Offer to Provide Services

Proposer understands and agrees that its Proposal to the Compact to provide services will remain valid for 60 days past the submission deadline.

**SECTION 9. SELECTION PROCESS**

A. Minimum Comparative Evaluation Criteria

The final selection of the winning Proposer will be based on the following set of minimum evaluation criteria:

1. Satisfaction of all qualifications set forth in Sections 3 (General Qualifications) and 4 (Specific Qualifications).
2. Timely submission of the Proposal.
3. Inclusion of all required forms and documentation.

4. Compliance with the terms and conditions required in this RFP.

The Chief Procurement Officer will review all Proposals to make sure minimum requirements are met. Proposals that meet all of the minimum requirements set forth in this RFP will be further reviewed and evaluated according to the specific comparative evaluation criteria enumerated in this RFP.

B. Comparative Evaluation Criteria

In addition to the minimum threshold criteria, each Proposal will be further evaluated and rated solely on the basis of the comparative evaluation criteria using the following scale: Highly Advantageous, Advantageous, Not Advantageous and Unacceptable. The specific comparative evaluation criteria to be used in connection with this RFP is set forth in Attachment D.

C. Contract Award

The Chief Procurement Officer shall determine the most advantageous proposal from a responsible and responsive Proposer taking into consideration price and the evaluation criteria set forth in this RFP. The Chief Procurement Officer shall award the Contract by written notice to the selected Proposer within the time for acceptance specified in this RFP. The parties may extend the time for acceptance by mutual agreement.

Proposals which are incomplete, conditional or obscure, will be rejected. No award will be made to any Proposer who cannot satisfy the Compact that it has sufficient ability and resources to enable it to meet the requirements of this RFP. The Compact's decision or judgment on these matters shall be final, conclusive and binding.

## SECTION 10. CONFIDENTIALITY/RETENTION OF RFP PROPOSALS

Each Proposal will be held confidential by the Compact until such time as the evaluation and selection process has been completed.

If any proprietary information is contained in the Proposal and Proposer wishes that the Compact treat such information as confidential, it should be clearly identified. The Compact will take commercially reasonable efforts to protect such information. Under Massachusetts law, the Compact cannot assure the confidentiality of any material or information that may be submitted by a Proposer in response to this RFP.

Proposers who choose to submit confidential material or proprietary information do so at their own risk. The Compact is not liable for any action taken or omitted to be taken related to such proprietary information.

In general, Proposals are public documents available for inspection by interested parties after the completion of this procurement. Upon completion of the evaluation and the award of the Contract, all Proposals and information submitted in response to this RFP are subject to the Massachusetts Public Records Law, M.G.L. c. 66, §10 and M.G.L. c. 4, §7, cl. 26 and the

Massachusetts Open Meeting Law c. 30A, §§18-25. Any statements in submitted responses that are inconsistent with these statutes will be disregarded.

Further, as the Compact is a public entity it may become necessary to provide Proposer or Contract information to regulatory agencies for review. At Proposer's specific request, and if commercially reasonable, the Compact will request that such information be treated confidentially by the regulatory agencies.

## SECTION 11. MISCELLANEOUS

### A. Proposal Costs

All costs involved in preparing the Proposal will be borne by Proposer. Proposer must be familiar with all state, local and other laws relating to these services and must obtain all permits required and must pay all expenses for same.

### B. Cancellation

The Compact may cancel this RFP, in whole or in part, or may reject all Proposals, or may procure only some goods and/or services outlined in this RFP whenever such action is determined to be fiscally advantageous to the Compact, or if it is otherwise in the best interest of the Compact.

## **ATTACHMENTS**

|              |                                 |
|--------------|---------------------------------|
| ATTACHMENT A | Scope of Work                   |
| ATTACHMENT B | Form of Contract                |
| ATTACHMENT C | Certification of Non-Collusion  |
| ATTACHMENT D | Comparative Evaluation Criteria |
| ATTACHMENT E | Proposal Checklist              |

# ATTACHMENT A

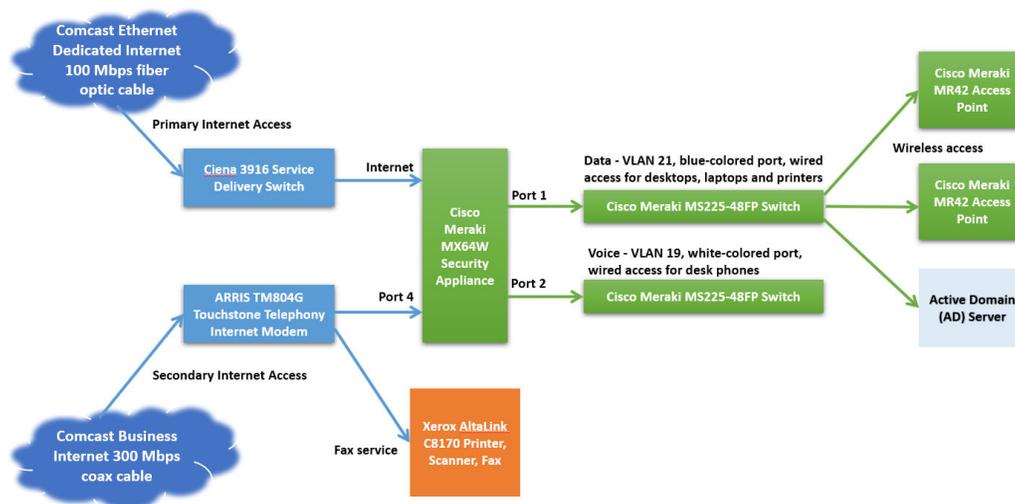
## SCOPE OF WORK

### 1. Program Description.

The Cape Light Compact JPE (the “Compact”) is requesting proposals from qualified firms for a Managed Service Provider (MSP) to provide network, application, infrastructure and security services via regular support and administration. Service delivery must include active monitoring and Endpoint Detection and Response (EDR).

### 1.1 Infrastructure Overview

Cape Light Compact JPE – Network Infrastructure



Primary internet access is provided by Comcast Ethernet Dedicated Internet 100 Mbps fiber optic cable. Secondary access is provided by Comcast Business Internet 300 Mbps coax cable, which also supports our Fax connection. Both services enter the Compact office through a Cisco Meraki MX64W Security Appliance firewall. Domain Name System (DNS) web service is provided by Amazon Route 53.

Wired access points are provided by two Cisco Meraki MS225-48FP cloud-managed switches, with one switch supporting data and the other voice. Each 48-port switch supplies 740w PoE to the network. There are multiple CAT6 RJ-45 Power over Ethernet (PoE) jacks in each office, the conference room, and the copy room. These direct-wired access points support data (VLAN 21, blue-colored port, for desktops, laptops, and printers) and voice (VLAN 19, white-colored port, for desk phones). A complete Patch Panel / Switch Port / Usage wiring map is displayed in the Server Room and is available from Compact IT.

Wireless access is provided by two Cisco Meraki MR42 access points, with one unit located in the conference room area and the other in the staff office area. Two types of wireless access are available on each device:

Pre-Shared Key (PSK-protected) staff access to all Compact cloud-based services, internal network resources, and the Internet

Public access to the Internet only

The Compact has approximately 20 staff members. Each is issued a Dell laptop computer, less than 4 years old, configured with Microsoft Windows 10, Office, Edge and Teams, Google Chrome, Mozilla Firefox, Adobe Acrobat DC, and Zoom Client. Staff are also issued an iPhone through Verizon Public Sector services. The Compact also has approximately 30 board members with a Microsoft Exchange Online (Plan 2) license who send and receive emails using their personal computers and mobile devices. Board members do not connect to the Compact network and do not use network resources.

Laptops connect to the network using a local Active Domain (AD) Server application running on a Synology dis416PLAY Network Attached Storage (NAS) device. Compact data is not stored on the NAS but on SharePoint and OneDrive cloud-based services.

All office computers include Cisco OpenDNS Umbrella, a protective DNS service to block access to known malicious websites, and ESET Endpoint Antivirus, for proactive malware detection. Libraries are updated daily.

Microsoft Office 365 Sender Policy Framework (SPF), DomainKeys Identified Mail (DKIM), and Domain-based Message Authentication, Reporting & Conformance (DMARC) are enabled.

Microsoft Office 365 malware detection and filters protect against phishing and limits the spread of ransomware (i.e., infected files stored on OneDrive and SharePoint online are detected and deleted/quarantined).

Emails are pre-screened for potentially malicious attachments and links.

The Compact also actively maintains an internal Office 365 anti-phishing policy of blocked domains and senders of suspect / unwanted emails received by staff.

Telecommunications and video conferencing services are provided by Zoom Communications with a limited number of Polycom vvx350 deskphones (5) issued to select staff.

A shared Xerox AltaLink C8170 multifunction printer serves the office printing, scanning and fax needs and select staff have access to HP Color LaserJet printers within their office areas. The Xerox is serviced and maintained by a third-party provider.

The Compact has access to Personal Identifiable Information (PII), including customer names, public utility account numbers, service addresses, mailing addresses, telephone numbers and email addresses.

The Compact does not collect, store, host, process, control, use or share:

- Social security numbers or other government identification numbers, payment card information, drivers' license numbers, financial account numbers, personal identification numbers (PINs), usernames, passwords, and healthcare records
- Biometric information or data, such as fingerprints, voiceprints, facial, hand, iris or retinal scans, DNA, or any other biological, physical, or behavioral characteristics
- Credit card numbers or transactions

## **1.2 MSP Services Overview**

### **1.2.1 Network Management**

The MSP will monitor the primary and secondary internet services, notify Compact IT to service degradation, disruptions, and restoration, and work with the ISP(s) to resolve issues.

The MSP will oversee, manage, and modify the Cisco Meraki network equipment configuration, perform required software updates, perform equipment troubleshooting, and assist Compact IT with equipment and services, recommendations, and replacement either remote or on-site, as needed.

The MSP will manage and monitor the firewall and allow Compact IT to update the blocked address and domain lists either through direct connect or service ticket.

The MSP will assist end users with troubleshooting and resolving network configuration and connection issues. If the point of failure is hardware-based, the MSP will coordinate repairs with the appropriate third-party vendor.

The MSP will configure and implement network updates required to access database information systems (for example site-to-site VPN), including Financial, Payroll, and Energy Efficiency.

### **1.2.2 Endpoint Detection and Response (EDR)**

The MSP will install and configure EDR client applications, as needed, and continuously monitor end-user devices to detect, respond, and resolve cybersecurity threats and notify Compact IT of detected and resolved issues.

The MSP will provide Compact IT with monthly, quarterly, and annual EDR reports, as needed.

The MSP will provide Mobile Device Management (MDM) services to ensure that the Compact's iPhones are updated, secure, and can be remotely located and locked if lost or stolen.

### **1.2.3 Cybersecurity**

The MSP will provide all staff with recurring cybersecurity training.

The MSP will conduct or oversee periodic (minimum annual) internal and external vulnerability scans and IT risk assessments, recommend improvements, and assist with implementation.

### **1.2.4 Software Management**

The MSP will deliver licensing, installation and support of key line-of-business applications, including Microsoft Office 365, Adobe, Zoom, and other cybersecurity and support products.

The MSP will implement a weekly, scheduled, overnight software update process including, at a minimum, Microsoft and Dell products.

The MSP will configure and maintain Microsoft Exchange, Sharepoint and OneDrive access for both Compact staff and external users and provide end-user support services to resolve issues.

### **1.2.5 End User Support**

The MSP will implement Help Desk technical support for company-issued laptops, mobile devices, and core SaaS services as described in 1.2.4. Support will be available via telephone, chat session, email, and web service.

The MSP will provide printer configuration, update, user support and advice to the Compact.

The MSP will assist the Compact with data wipe and surplus of obsolete equipment, such as computers, tablets, mobile phones and printers.

The MSP will provide select Compact IT personnel with the ability to remotely access staff laptops to assist with troubleshooting and training.

### **1.2.6 Backup and Restore Services**

The MSP will oversee and manage the implementation of a data back-up and recovery of specific files as needed, including Microsoft Exchange, SharePoint, and OneDrive (excludes the

Compact web site at <https://www.capelightcompact.org> and all information systems, which are cloud-based and are backed-up and maintained by their respective vendors).

### 1.2.7 Onboarding / Offboarding Users

The Compact will continue to maintain user access, purchase required user licenses, onboard and offboard users, and maintain inventory levels through 2024. Starting in January 2025, the following activity will transition to the MSP:

- The MSP will license and configure new staff members and provision laptop computers and mobile phones.
- The MSP will provision new or replacement equipment for existing staff and transfer all user data to the new or replacement equipment.
- The MSP will deprovision laptops, mobile phones, SaaS licenses, and network access when staff members leave the Compact, forward email and calls to the designated Compact manager, archive user data, and make the archived data available for Compact management search and retrieval.
- The MSP will maintain the Compact’s IT inventory of all active and spare equipment, including assigned staff member, manufacturer, model, serial number, in-service date, warranty end date, operating system, and patching compliance. The Compact will assist the MSP with inventory verification, as needed. The inventory list will be available to the Compact at any time.

### 1.3 MSP Detailed Requirements

Within the Proposal, provide a detailed response to each of the following requirements:

| RID | Process Sub-Step    | Requirement Sub-Category | Requirement Description   |
|-----|---------------------|--------------------------|---|
| 1   | Software Management | Services                 | Installation and support of key line of business applications   |
| 2   | Software Management | Services                 | Provide oversight to multiple SaaS software vendors on behalf of the Compact. Assist in price/feature negotiation, vendor requests and follow up, support requests, configuration changes, upgrades, and troubleshooting with vendors. Includes Microsoft, Adobe, Zoom, and other cybersecurity and support products. Excludes major database information systems, such as Financial, Payroll and Energy Efficiency Tracking. |
| 3   | Software Management | Services                 | Working knowledge and experience with municipal operations and software   |

|    |                     |                 |  |
|----|---------------------|-----------------|--|
| 4  | Software Management | Services        | Advise during the procurement process  |
| 5  | Software Management | Services        | Oversee and manage implementation of a data back-up/restore, including recovery of specific files as needed.   |
| 6  | Software Management | Services        | Provide software license audit annually  |
| 7  | Software Management | Services        | Proactively manage, monitor, and support all infrastructure components   |
| 8  | Software Management | Services        | End-user workstation monitoring, installation, configuration, maintenance, upgrades, and support   |
| 9  | Software Management | Services        | Security patches and operating system upgrades for all equipment   |
| 10 | Software Management | Services        | Support of miscellaneous network equipment   |
| 11 | Software Management | Services        | Printer configuration, user support, and limited printer repairs   |
| 12 | Software Management | Staffing Levels | Provide remote skilled help desk staff 8X5X52  |
| 13 | Software Management | Staffing Levels | Provide an Account Manager to interface with client  |
| 14 | Software Management | Management      | Respond to reported network or system outages; contact the customer point of contact in accordance with predefined notification policies                           |
| 15 | Monitoring          | Management      | Monitor warnings and errors in the system, application, security, DNS, and replication logs  |
| 16 | Monitoring          | Management      | Monitor hardware availability  |
| 17 | Monitoring          | Management      | Desktop/laptop monitoring  |
| 18 | Network             | Management      | Software updates including patching, hotfixes, and security releases. Perform network assessment(s), recommend future improvements and assist with implementation. |
| 19 | Support             | Desktop         | Provide basic desktop support functions  |
| 20 | Support             | Desktop         | Installation of PC's, laptops, printers, peripherals, and office software  |
| 21 | Support             | Desktop         | Diagnosis and correction of desktop application problems   |
| 22 | Support             | Desktop         | Configuring of PC's and laptops for standard applications  |
| 23 | Support             | Desktop         | Identification and correction of user hardware problems  |
| 24 | Support             | Desktop         | Maintenance of an inventory of all computer-related hardware   |
| 25 | Support             | Mobile Device   | Provide mobile phone support and MDM   |
| 26 | Support             | Help Desk       | Support via Telephone/live technician  |
| 27 | Support             | Help Desk       | Service requests may also be submitted via email   |

|    |                 |           |  |
|----|-----------------|-----------|--|
| 28 | Support         | Help Desk | Support requests will be logged by the Help Desk   |
| 29 | Support         | Help Desk | New service requests for software support, problem solving, status inquiries regarding prior service requests, software support, and all other related service inquiries                         |
| 30 | Support         | Help Desk | Requests must be entered into the ticketing system and provided with an outbound email   |
| 31 | Support         | Help Desk | Provide summary of request for support, potential response time, ticket number and method of contact to check on the ticket status   |
| 32 | Support         | Help Desk | Provide a Help Desk tracking and reporting tool that can be accessed by the IT Department  |
| 33 | Communications  | Email     | Maintenance of all email accounts  |
| 34 | Communications  | Email     | Maintenance of virus detection of desktops, and laptops  |
| 35 | Communications  | Email     | Performance of security audits   |
| 36 | Communications  | Email     | Mailbox administration (including management of global account list and distribution Lists, user account additions and deletions), typically responding to change requests in a 24-hour interval |
| 37 | Communications  | Email     | Manage mailbox policies: mailboxes are limited to a certain size per user  |
| 38 | Communications  | Email     | Responding to system issues and resolve detected faults as they arise (which encompasses diagnosing the issue, isolating the fault, and resolving the problem)                                   |
| 39 | Communications  | Email     | Perform routine administration including but not limited to: quota management, message tracking, adding/deleting/changing user accounts, and troubleshooting message delays                      |
| 40 | Security/Backup | Firewall  | Fully manage and monitor firewall 24x7x365   |
| 41 | Security/Backup | Firewall  | Maintain updates and hardware maintenance on firewall  |
| 42 | Security/Backup | Firewall  | Establish and maintain the security rule base  |
| 43 | Security/Backup | Firewall  | Regularly review event logs to ensure proper operation of the firewall and investigates attempted breaches or other security threats   |

|    |                         |               |  |
|----|-------------------------|---------------|--|
| 44 | Security/Backup         | Virus Defense | Install anti-virus software at the workstations, boundary level scan and clean alias files (including e-mail attachments) for harmful viruses  |
| 45 | Security/Backup         | Virus Defense | Attempt to remove and block infected files   |
| 46 | Security/Backup         | Virus Defense | Update all pattern and engine files on workstation, servers, and Internet mail relays with no required client intervention (except remote users connecting to the network via a VPN session must manually update the virus pattern files periodically)   |
| 47 | Security/Backup         | Virus Defense | Quarantine infected files when detected. If an infected attachment to an email message addressed to an end user is detected, the intended recipient is notified that the interception has occurred and notified again if the infected file cannot be cleaned. Lock down client security configurations so end-users cannot alter or disable their antivirus software |
| 48 | Security/Backup         | Services      | Conduct or oversee periodic (minimum annual) internal and external vulnerability scans and IT risk assessments, recommend improvements, and assist with implementation   |
| 49 | Security/Backup         | Services      | Provide all Microsoft Email, SharePoint and OneDrive backup and restore activity.  |
| 50 | Security/Backup         | Services      | Manage on-going cybersecurity training for staff   |
| 51 | Security/Backup         | Compliance    | Conduct periodic (annual) Remote Social Engineering Assessment   |
| 52 | Security/Backup         | Compliance    | Solicit, review annual information system SOC1, SOC2 reports, store, recommend compliance improvements as needed, assist with implementation   |
| 53 | Security/Backup         | Compliance    | Complete cybersecurity insurance survey forms and documentation requirements and provide professional credentials on behalf of the Compact.  |
| 54 | Service Level Agreement | Reporting     | Vendor will provide reports on the agreed upon Service Level Agreement components (minimum quarterly frequency).   |
| 55 | Service Level Agreement | Reporting     | Ability to live answer all calls   |
| 56 | Service Level Agreement | Reporting     | Tickets are acknowledged within 1 hour and closed within 24 hours  |

|    |                         |           |   |
|----|-------------------------|-----------|---|
| 57 | Service Level Agreement | Reporting | 80% end user customer satisfaction rating   |
| 58 | Service Level Agreement | Reporting | Provide on-demand or minimum weekly statistics to the client on number of support tickets (opened, closed), number of tickets over 24 hours, 2 days |
| 59 | Service Level Agreement | Reporting | Provide quarterly summary of tickets, outages, and projects   |

**1.4 Future Considerations**

The Compact will seek procurement advice and implementation support for a Password Management Utility.

The Compact plans to enforce Multi-Factor Authentication (MFA).

The Compact plans to transition from hardware-based Active Domain Server to cloud-based Microsoft 365 Azure Active Directory with MFA.

The Compact plans to tag external emails to alert employees that the message originated from outside the organization.

The Compact will seek technical advice and implementation support on consolidating separate 48-port Data and Voice VLANs into a single 96-port VLAN.

**2. Project Objectives and Expected Outcome**

The MSP understands that the Objective is to deliver professional, high-quality, cost-effective information technology services to the Compact including:

- Network Management
- Endpoint Detection and Response (EDR)
- Mobile Device Management (MDM)
- Cybersecurity
- Software Management (excluding web site and information systems)
- End User Support
- Backup and Restore

The Compact will continue to maintain user access, purchase required user licenses, onboard and offboard users, and maintain inventory levels through 2024. Starting in 2025, this activity will transition to the MSP.

The Compact's expectation is the MSP will perform this activity through remote access. The MSP will be compensated for any required on-site services at a fair and mutually agreed rate.

### 3. Services

The MSP will deliver the following Services in support of the Project objectives:

**Network Management Services** - Remote monitoring of network infrastructure and end-user systems, network equipment configuration, update, troubleshoot and support, firewall management, and end-user network configuration and connection support.

**Endpoint Detection and Response (EDR)** - Install EDR client on end-user systems, continuously monitor end-user devices, detect, respond, and resolve cybersecurity threats, notify the Compact to detected and resolved issues, and provide the Compact IT with monthly, quarterly, and annual EDR reports.

**Mobile Device Management (MDM)** - Ensure that the Compact's iPhones are updated, secure, and can be remotely located and locked if lost or stolen.

**Cybersecurity** - Provide recurring cybersecurity training and conduct, or oversee, periodic internal and external vulnerability scans and IT risk assessments, recommend improvements, and assist with implementation.

**Software Management** - Deliver licensing, installation, and support of key line-of-business applications (excluding the Compact's Financial, Payroll and Energy Efficiency information systems), implement a weekly, scheduled, overnight update process, configure and maintain Microsoft Exchange, SharePoint, and OneDrive, and provide end-user support services to resolve issues.

**End User Support** - Deliver Help Desk technical support, provide printer configuration, update, user support and advice, assist with data wipe and surplus of obsolete equipment, and provide select Compact IT personnel with the ability to remotely access staff laptops to assist with troubleshooting and training.

**Backup and Restore** - Manage the implementation of a data backup and recovery of specific files as needed, including Microsoft Exchange, SharePoint, and OneDrive (excludes Compact information systems).

**Onboarding / Offboarding Users** – Starting in January 2025, license and configure new users, provision laptop computers and mobile phones, and transfer all user data to replacement equipment. When staff members leave the Compact, deprovision laptop computers, mobile phones, SaaS licenses, and network access, forward email and calls to the designated Compact manager, archive user data, and make the archived data available

for Compact management search and retrieval. Perform inventory management of all active and spare equipment and provide an inventory list to the Compact at any time.

4. **Deliverables/Work-Product; Timing**

The MSP will provide the following deliverables to the Compact in accordance with the following schedule:

All Services identified in Section 3, excluding Onboarding / Offboarding Users, in a cost-effective way within the RFP timeline.

Onboarding / Offboarding Users will transition to the MSP in January 2025.

5. **Reports**

The MSP will deliver a written Implementation Plan and associated Project Task Schedule with Task Description, Estimated Time, Due Date, Responsible Resource, Status, and Notes.

The MSP will host weekly a Project Status Meeting, incorporating a written Meeting Agenda, weekly update to the Project Task Schedule, and a follow-up Action Items List for all new and outstanding meeting items, including Item Number, Description, Due Date, Owner, Status, and Notes.

The MSP will deliver a monthly Service Ticket Activity Report, including Service Ticket Number, Service Issue, Staff Member, Start Date, Assigned Resource, Issue Detail, Resolution, Resolution Date and Hours.

The MSP will deliver monthly, quarterly, and annual EDR activity reports.

The MSP will deliver Cybersecurity Incident Reports, as needed.

6. **Additional Training, Required Certifications and/or Performance Standards**

Vendor should provide any certifications attained which are applicable to the requirements outlined in this RFP for the company and for individuals proposed for the project. Examples of applicable certifications include general MSP (CompTIA, etc.), compliance, and cyber security certifications, along with certifications from key vendors such as Microsoft (MCSE, Azure, 365) and Cisco (Meraki).

7. **Quality Controls**

Vendor will conduct status/update meetings on a weekly basis and provide quality control reports as outlined in the **Reports** section of this document. In addition, Vendor will provide reports on the agreed upon Service Level Agreement components. SLA reports will include the following metrics at a minimum:

- Time to respond (Target: within 1 hour)
- Time to resolution (Target: within 24 hours)
- End user customer satisfaction rating (Target: >80%)
- Total number of support tickets (opened, closed)
- Summary of tickets, outages, and projects

#### 8. **Project Team**

The MSP will provide a list of key personnel (need not be names, but titles/category of employees) with dedicated time and expected Compact support roles.

#### 9. **Compact Responsibilities**

The Compact is responsible for the following transition and on-going management:

The Compact will provide a primary point of contact who is responsible for IT knowledge transfer, answer questions, be open to interviews, provide system documentation, and become a liaison to the MSP.

The Compact will have a representative to attend regular meetings with the MSP, or designee (if necessary).

The Compact will report issues and/or interruptions in service to the MSP, or designee.

The Compact will be responsible for verifying, approving, and processing MSP invoices.

#### 10. **Price Model**

Within the Proposal, provide a detailed Price Model using the **CLC 2023 IT MSP RFP - Pricing Bid Sheet.xlsx** spreadsheet, including:

**Core Requirements:** All services that are considered necessary by the Cape Light Compact (as described in the RFP) should be included. If there are any departures, they should be clearly noted.

**Ad-Hoc Services:** Please include any services that were considered optional or could provide additional benefits to the Compact.

**Additional Ad-Hoc Staff Resources:** If applicable, staff time may be charged. If so, please describe when additional ad-hoc staff resources would be deployed.

**ATTACHMENT B**  
**FORM OF CONTRACT**

# PROFESSIONAL/CONSULTING SERVICES AGREEMENT

This PROFESSIONAL/CONSULTING SERVICES AGREEMENT (“Agreement”) is made by and between the Cape Light Compact JPE, a joint powers entity organized pursuant to G.L. c. 40, §4A½ (the “Compact”), and [insert] (“Consultant”). The Compact and Consultant may be referred to herein collectively as the “Parties,” or either singularly as a “Party.” This Agreement is effective as of [insert].

WHEREAS, pursuant to G.L. c. 40, §4A, in 1997, the towns of Aquinnah, Barnstable, Bourne, Brewster, Chatham, Chilmark, Dennis, Edgartown, Eastham, Falmouth, Harwich, Mashpee, Oak Bluffs, Orleans, Provincetown, Sandwich, Tisbury, Truro, West Tisbury, Wellfleet, and Yarmouth, and the counties of Barnstable and Dukes County entered into an inter-governmental agreement, as amended from time to time, to act together as the Compact;

WHEREAS, in 2017, the Compact undertook a reorganization and began fully operating as a joint powers entity as of July 1, 2017;

WHEREAS, the purposes of the Compact include protecting and advancing the interests of residential, commercial and industrial customers in a competitive electric supply market, and administering an energy efficiency plan that advances consumer awareness and the adoption of a wide variety of energy efficiency measures and that also utilizes and encourages demand side management;

WHEREAS, the Compact is operating an Energy Efficiency Plan which is periodically updated and approved by the Massachusetts Department of Public Utilities;

WHEREAS, the Compact issued a [insert as applicable – generally a request for proposals] on [insert date] for the performance of [insert program name] (the “RFP” [or other document]);

WHEREAS, the Compact seeks to enter into an agreement with Consultant for certain services which are defined in Section 2.1 in connection with the energy efficiency programs that it operates or will operate under the Energy Efficiency Plan; and

WHEREAS, Consultant has the expertise required to provide the Compact with the services required pursuant to this Agreement.

NOW THEREFORE, in consideration of the promises and mutual covenants set forth herein, Consultant and the Compact do hereby agree as follows:

## **SECTION 1                    TERM OF AGREEMENT AND TERMINATION**

1.1     **Term.** This Agreement is effective as of the date set forth above and shall continue in force and effect until [insert], unless this Agreement is terminated before such date under the provisions of Section 1.2. In addition, the Compact may, in its sole discretion, extend the term of this Agreement for an additional [insert] year(s) by providing sixty (60) days notices to Consultant of its intent to extend the term of this Agreement. [Alternative language: The Compact may, in its sole discretion, extend the Agreement for an additional period or periods of time representing increments of no more than one (1) year and a total extended term of no more than three (3) years by providing sixty (60) days notices to Consultant of its intent to extend the term of this Agreement.]

1.2     **Termination.** The Compact shall have the right to terminate or suspend this Agreement for any reason, including, but not limited to, in the event that the Consultant is in default under another consulting or installation services agreement between Consultant and the Compact, or for convenience. Consultant may terminate this Agreement only if the Compact materially breaches its obligations under this Agreement. The terminating Party shall provide written notice to the other Party of any such termination or suspension, specifying the effective date thereof. If the terminating Party is the Compact, such notice shall be given at least fifteen (15) calendar days before such effective date; if the terminating Party is Consultant, such notice shall be given at least ninety (90) calendar days before such effective date. In addition, if the Compact terminates this Agreement for cause, the Compact shall be entitled to deduct and/or be reimbursed any costs of cure and transition costs (including reasonable attorneys' fees) that it, a Member<sup>1</sup> or a Customer (as defined herein) incurs related to engagement of a substitute Consultant.

1.3     **Termination or Suspension Due to Changes in Funding.** This Agreement is subject to the receipt of funds from various sources to support the Energy Efficiency Plan. If for any reason such funding is terminated, suspended, or restricted, this Agreement will become null and void, effective immediately upon notice to Consultant. The Compact shall provide written notice of such termination or suspension to Consultant. In the event of such termination or suspension, Consultant shall be paid for all authorized, satisfactory (in the reasonable discretion of the Compact) Services performed up to and including the date of termination or suspension.

1.4     **Obligations Upon Termination.** Following termination of this Agreement, the Parties shall each discharge by performance all obligations due to the other Party that arose up to the date of termination of this Agreement.

## **SECTION 2                    SCOPE OF SERVICES AND RELATED MATTERS**

---

<sup>1</sup> For the purposes of this Agreement, the term "Member" means the towns of Aquinnah, Barnstable, Bourne, Brewster, Chatham, Chilmark, Dennis, Edgartown, Eastham, Falmouth, Harwich, Mashpee, Oak Bluffs, Orleans, Provincetown, Sandwich, Tisbury, Truro, West Tisbury, Wellfleet, Yarmouth, Dukes County, and any other governmental unit that becomes a member of the Compact during the term of this Agreement.

2.1 **Services.** Consultant agrees to provide the expertise, labor, materials and supplies necessary to perform the services and deliverables described in Exhibit A attached hereto and such other services as may be specifically requested by the Compact from time to time (the “Services”). All such Services and deliverables shall be designed to achieve the anticipated outcomes specified in the description of Services and shall be provided in accordance with the terms and conditions of this Agreement.

2.2 **Changes.** The Compact may, from time to time, require changes in the scope of the Services to be performed hereunder. Such changes must be evidenced in written amendments to this Agreement. Any Services performed or proposed by Consultant shall not be reimbursed unless they are approved in writing by the Compact prior to their rendering.

2.3 **Timing of Performance.** Consultant shall commence and complete the Services in accordance with the project milestone schedule incorporated into Exhibit A. If no schedule is incorporated, Consultant shall begin to render the Services on the effective date of this Agreement and shall continue to render the Services in a prompt and timely manner.

2.4 **Staffing; Background Check Requirements.** The Compact may require Consultant to remove from its project team such employees of Consultant or subcontractors of Consultant as the Compact, in its reasonable discretion, deems objectionable, or whose continued employment in connection with the Services is deemed by the Compact, in its reasonable discretion, to be contrary to the best interests of the Compact.

Upon request by the Compact, Consultant shall comply with the Compact’s written requirements for employee background checks, as set forth in Exhibit B, and as may be amended from time to time by the Compact.

[ ] required [ ] not required

2.5 **Conflicts of Interest.** Consultant covenants that it presently has no interest, and shall not acquire any interest, directly or indirectly that would conflict in any manner or degree with the performance of the Services. Consultant agrees to diligently serve and endeavor to further the best interests of the Compact, as known or made known to Consultant. Consultant further agrees not to undertake activities that conflict, or are not in accordance with, the best interests of the Compact, and shall disclose any other employment or engagements that could conflict with its obligations under this Agreement. Consultant further covenants that it shall comply with all relevant provisions of G.L. c. 268A.

2.6 **Points of Contact.** Consultant names [insert], as the day-to-day point of contact for the Compact for all issues arising under this Agreement and the person responsible for ensuring over the entire term of this Agreement that the Services are performed and completed in a manner satisfactory to the Compact and in accordance with the terms of this Agreement. The Compact names [insert] to be the day-to-day point of contact for Consultant for all issues arising under this Agreement.

## SECTION 3

## COMPENSATION AND RELATED MATTERS

3.1 **Rates of Compensation; Budgets.** Consultant shall be compensated by the Compact for the Services in accordance with the terms and rates set forth in Exhibit C hereto. The Compact may reject any invoices using billing rates that are not consistent with Exhibit C, unless the Compact has previously accepted such substitute rates in a written amendment to this Agreement.

In the event that a budget or multiple budgets apply to the Services, the budget(s) shall be set forth in Exhibit C. For each budget set forth in Exhibit C, there shall be an accompanying statement as to whether such budget is an estimated budget for planning purposes or not-to-exceed budget. If a budget is not-to-exceed, in no event shall the total amount paid under this Agreement exceed such not-to-exceed budget amount, unless a contract amendment has been executed by the Compact incorporating such budget increase.

The compensation set forth in Exhibit C shall remain firm for the initial term. If Consultant's RFP response included compensation terms for any extensions of the Term and such terms were accepted by the Compact, such terms shall be set forth in Exhibit C. If Consultant proposes a compensation increase for any extended term(s), the proposed increase must be submitted to the Compact for approval at least one hundred twenty (120) days prior to expiration of the term. Any requested compensation increase must be presented to the Compact in writing along with documentation supporting the requested increase. Approved compensation changes shall become effective on the date set forth in the Compact's approval notice (if any).

The Compact may treat all or a portion of the information on Exhibit C (Compensation) as confidential, competitively sensitive information to the extent permitted by the Massachusetts Public Records Law (G.L. c. 4, §7, cl. 26(s)) or other applicable law.

3.2 **Invoicing and Payment.** Consultant shall submit monthly invoices to the Compact by the 10<sup>th</sup> day of each month, unless otherwise authorized in writing by the Compact. The Compact shall remit payment within forty-five (45) calendar days of the Compact's receipt of each monthly invoice in accordance with applicable municipal finance laws. Payment may be contingent upon final inspection and/or acceptance of the Services. Upon request, Consultant shall provide to the Compact all backup documentation required to establish the value of the Services performed to date as represented by Consultant's monthly invoices. If a budget(s) is applicable, each invoice submitted by Consultant shall state the total amount of Services billed against such budget(s).

3.3 **Effect of Payment.** The Compact shall not be deemed to have accepted any improper Services, materials or performance by virtue of any payment made to Consultant. Payments shall be deemed advances and are subject to adjustment for errors, overpayments, or the Compact's good faith determination that the remaining balance of payments may be insufficient to ensure completion of the Services.

3.4 **Withholding.** The Compact may withhold a payment of all or a part of any invoice to the extent as may be necessary to protect itself from loss caused by: (i) defective Services not

remedied; (ii) claims filed or reasonable evidence indicating probable filing of claims by other parties against Consultant or the Compact in connection with the Services; (iii) Consultant's failure to make payments properly to subcontractors for materials, labor or equipment; (iv) unsatisfactory performance of the Services; (v) Consultant's failure to pay any amounts due to the Compact; or (vi) Consultant's failure to perform any of its obligations under this Agreement. In addition, if the Compact has a reasonable indication that the unpaid balance will be insufficient to cover the cost to complete the Services or that the Services will not be completed within the project milestone schedule (if any), the Compact may withhold payment of all or a part of any invoice to the extent as may be necessary to protect itself from such anticipated losses. The Compact shall notify Consultant of the grounds for any withholding. When Consultant provides performance assurance satisfactory to the Compact that will protect the Compact for the amount withheld, payment shall be made. When deemed reasonable by the Compact, the Compact may use such withheld funds to undertake remedial measures.

3.5 **Credits.** Consultant may not claim any governmental or other energy efficiency credits, tax credits, forward capacity payments, carbon offsets, rebates or incentives of any kind as a result of or in connection with the Services performed under this Agreement (collectively, the "Credits") without the written consent of the Compact in its sole discretion. To the extent any Credits are allocated to the Compact, a Compact project or to a Compact customer/program participant ("Customer"), by operation of law or regulation, Consultant shall, upon request and without charge, cooperate fully with the Compact to disclaim any rights to such Credits and to assign or allocate all such Credits, and the value thereof to the party designated by the Compact.

## **SECTION 4 PERFORMANCE STANDARDS**

4.1 **General Performance Standard and Warranty.** Consultant assumes professional and technical responsibility for the performance of the Services in accordance with the terms of this Agreement and the representations, warranties and covenants set forth in Section 4.2 below. All Services shall be free from defects in design, workmanship, and materials of any kind, for a period of twelve (12) months from the date placed in service or twenty-four (24) months from the date of receipt, whichever is later. Additional guarantees or warranties may be specified in the description of Services in Exhibit A.

If Consultant is suspended, terminated, put on probation or receives a notice of nonperformance by another program administrator who participated as part of the group procurement in the RFP, Consultant must immediately notify the Compact and must describe the performance issues alleged by the program administrator and identify (i) any remedies and corrective actions it takes or proposes to take in response to such allegations and (ii) any credits or refunds it offers to the program administrator to resolve the dispute.

4.2 **Representations, Warranties and Continuing Covenants.** In performing its obligations hereunder during the term of this Agreement, Consultant represents, warrants and covenants that: (i) all Services shall conform to all requirements of the Agreement; (ii) it shall exercise reasonable care to assure that its operations are prudently and efficiently managed; (iii) it shall employ an adequate number of competently trained and experienced personnel to carry out the Services; (iv) all Services shall be performed by qualified, competent, and experienced

personnel, and in accordance with the highest standards of care, skill, and diligence, and consistent with recognized and sound professional practices and procedures; (v) it shall comply with all relevant industry standards and practices for the delivery of Services to the Compact; (vi) it shall comply with applicable laws and professional licensing requirements; and (vii) it shall ensure that it validly owns or licenses all intellectual property used in the performance of the Services, with a right to sublicense to the extent necessary, and that such licenses are maintained at all times during the term of this Agreement.

**4.3 Correction of the Services.** If the Services provided by the Consultant or its subcontractors fail to conform to the warranties set forth above, in addition to all other remedies available at law or equity, the Consultant shall, at its sole expense and at the Compact's option, promptly: (i) re-perform the nonconforming Services; (ii) refund the amount of money paid by the Compact for such nonconforming Services; or (iii) reimburse the Compact for the cost of replacing, repairing, curing, or re-performing the nonconforming Services or having the nonconforming Services re-performed, cured, repaired, or replaced by a third-party. The Compact may require the Consultant to use overtime services at no cost to the Compact if such additional effort shall shorten the time the Services are nonconforming. All warranty services performed by the Consultant shall be scheduled by and at times acceptable to the Compact. If any warranty services are provided, the Consultant's warranties shall recommence upon the Compact's acceptance of such repaired, re-performed, cured, or replaced Services and shall be in effect for the duration of the warranty period or for twenty-four (24) months after completion of the warranty services, whichever is later. The terms of this section shall survive termination of the Agreement and delivery, inspection, tests, acceptance, and use of the Services. In addition to all remedies permitted by law, the Compact reserves the right to reject and return to the Consultant for full credit and at the Consultant's expense, all Services that do not conform to the Compact's specifications or requirements. Further, the Compact may, at its option, and without limiting its other rights, cancel all or any unfilled part of the Agreement if conforming performance of the Services are not made within the time specified. The Compact reserves the right to charge the Consultant, and the Consultant shall be liable for any loss or expense incurred as the result of the Consultant's failure to make timely performance of the Services. The acceptance of any late performance of the Services shall not constitute waiver to reject subsequent performance not made as originally scheduled.

**4.4 Subcontractor Warranties.** The Consultant shall obtain from each subcontractor, and extend to the Compact for its benefit, warranties for all Services performed or supplied by such subcontractor, substantially identical to the warranties the Consultant is required to provide hereunder. Any such warranties are in addition to and are not limited by or themselves limit, the warranties of the Consultant otherwise provided in the Agreement. The Consultant shall deliver to the Compact copies of any subcontractor warranties.

**4.5 Periodic Reporting.** Upon the request of the Compact, the Consultant shall promptly submit a report detailing the status of the Services including the progress toward achieving completion of any deliverables or project milestones. Additional reporting requirements may be set forth in Exhibit A.

## **SECTION 5 INTELLECTUAL PROPERTY MATTERS**

5.1 **Intellectual Property Rights; Work for Hire.** Consultant agrees that any work of authorship created or developed by Consultant during performance or delivery of services to the Compact, either individually or jointly with others, in the course of the rendering the Services to the Compact shall be deemed a “work for hire,” and the exclusive property of the Compact. To the extent not deemed a “work for hire” by operation of law, with respect to any invention, trade secret, or work of authorship created or developed in the course of the rendition of services to the Compact, Consultant hereby irrevocably assigns, transfers, and conveys to the Compact all of Consultant’s right, title and interest in such property, including but not limited to, all rights of patent, copyright, trade secret or other proprietary right in such property. Further, Consultant agrees to execute any documents or take any action reasonably requested by the Compact to perfect the Compact’s ownership of any such property. Consultant further agrees that, to the best of its knowledge, all work created or developed by Consultant will be original and non-infringing.

5.2 **Dissemination of Information.** Consultant shall not disseminate any information, reports, information, data, etc., created, prepared, assembled or obtained in performance or delivery of Services to any third party without the prior written consent of the Compact. Consultant shall not issue publicity, advertising, news releases, grant press interviews or create or distribute social media regarding the Services or the Compact during or after the performance or delivery of the Services without the prior written consent of the Compact.

## SECTION 6 INSURANCE

Unless waived by the Compact in writing, upon a finding under special circumstances giving rise to minimal liability under this Agreement and risk to the Compact, Consultant shall, at its sole expense, procure and maintain the following insurance:

- (a) Until completion of the Services:
  - i. Workers’ Compensation and Employers’ Liability Insurance covering *each and every worker employed in, about or upon the Services*, as provided for in each and every statute applicable to the Workers’ Compensation and Employers’ Liability Insurance.
  - ii. Commercial General Liability Insurance, written on an occurrence form including coverages for Bodily Injury, Broad Form Property Damage, Personal Injury, Products/Completed Operations, Liability arising out of Subcontractors, Contractual Liability (to specifically include coverage for the indemnification clause of this Agreement), and so-called Explosion, Collapse and Underground Hazards, with minimum limits of \$1,000,000 per occurrence/\$2,000,000 per project general aggregate; \$1,000,000 aggregate for products and completed operations.
  - iii. Automobile Liability Insurance covering all owned, non-owned and/or hired

motor vehicles to be used in connection with the Services with a minimum combined single limit of \$1,000,000 bodily injury and property damage, including Form MCS-90 and Broadened Pollution Coverage via ISO form CA9948 or its equivalent.

iv. Umbrella Liability Insurance covering over underlying Commercial General Liability, Automobile Liability and Employers' Liability Insurance with a minimum limit of \$5,000,000.

v. Professional Liability Insurance covering Consultant's errors and omissions relating to the Services if the Services involve rendering of professional advice or consultation, including designs, surveys, drawings, approval of maps, etc. Such insurance shall be provided at a limit of at least \$1,000,000. Such insurance may be maintained on a "claims made" basis but in such case it shall always be subject to a retroactive date that is effective prior to the effective date of this Agreement.

vi. Network Security and Privacy Liability (a/k/a Cyber Liability) Insurance including coverage for liability arising from loss or disclosure of business data; system or privacy breach; denial or loss of service; introduction, implantation or spread of malicious software code; and unauthorized access to or use of computer systems or business data; infringement of privacy or intellectual property rights; breach mitigation and regulatory coverage; internet advertising and content offenses; defamation; and errors or omissions in software and/or systems development, implementation and maintenance with minimum coverage limits of \$10,000,000 per each occurrence/claim. If coverages are provided on a claims-made basis, any applicable coverage retroactive date must be the effective date of this Agreement.

(b) After the Services are complete:

i. Products and Completed Operations for limits of \$1,000,000/occurrence; \$1,000,000 aggregate as provided by the Commercial General Liability Insurance form for three (3) years.

ii. Professional Liability Insurance if the Services involve rendering of professional advice or consultation, including designs, surveys, drawings, approval of maps, etc. with a limit of at least \$1,000,000 for three years.

The Compact reserves the right to refuse any exception to the standard limits and coverages if it is determined that the exception is not in the best interest of the Compact. Consultant's insurance companies are to be licensed as "admitted" carriers in Massachusetts with minimum acceptable A.M. Best ratings of "A" and size Class VIII, or as otherwise acceptable to the Compact, in its discretion. The Compact reserves the right of final approval of Consultant's insurance companies.

Consultant agrees to waive any rights of subrogation against the Compact, the Compact's Customers, Members, and their respective employees, subcontractors, engineers, workers and agents. Consultant shall name the Compact and its officials and employees as additional

insureds on its commercial general liability insurance, automobile liability insurance and umbrella liability insurance policies.

Consultant shall not begin rendering Services without first submitting to the Compact the insurance certificate(s) that indicate the coverages required by this Agreement. The insurance certificate(s) shall provide that there will be no cancellation or reduction of coverage without thirty (30) days prior written notice to Consultant and Consultant shall in turn provide at least (thirty) 30 days advance notice of cancellation to the Compact. If the policy expires prior to completion of the Services, Consultant must submit replacement insurance certificate(s) prior to the policy expiration date. Failure to submit new certificates shall result in withholding payments and/or may lead to the termination of this Agreement. Consultant shall be solely responsible for tracking and reporting to the Compact the expiration of the policies shown on the insurance certificate(s) provided.

## **SECTION 7                    INDEMNIFICATION BY CONSULTANT<sup>2</sup> AND DAMAGES FOR BREACH**

7.1     **Indemnification.** To the fullest extent allowed by law, Consultant (and its officers, directors, employees, servants, agents, representatives, attorneys, independent contractors, successors and assigns) shall indemnify, defend, and hold harmless (i) the Compact, (ii) each Member (and all of the respective officials, officers, directors, employees, servants, agents, representatives, attorneys, independent contractors, successors and assigns of the Compact and each Member), and (iii) all Customers (the three foregoing categories of parties constituting collectively the “Indemnified Parties”) from any loss, damage, liability, cost (including, but not limited to, reasonable attorneys’ fees and costs), charge, expense, or third-party claim or cause of action arising out of any damage or injury to property of an Indemnified Party, Consultant and/or third-parties (including real property, personal property and environmental damages), persons (including injuries resulting in death), or economic damages, directly or indirectly caused by or arising out of or in any way connected with (i) any act or omission of Consultant in breach of this Agreement, (ii) any negligence, willful misconduct, or breach of law of Consultant, its agents, employees, subcontractors, and suppliers, (iii) any third-party claim under federal law pertaining to copyright infringement, trademark infringement, libel, slander, defamation, invasion of privacy, piracy, or plagiarism arising from the Compact’s use, consistent with the terms of this Agreement, of Consultant’s final deliverables (except to the extent that such third-party claim arises from materials supplied by the Compact, or any unauthorized modifications to the deliverables by the Compact), (iv) any equipment, property or facilities used by Consultant, its agents, employees, subcontractors, and suppliers, or (v) failure of Consultant or its subcontractors to comply with applicable law. The Indemnified Parties shall not be indemnified or held harmless against liability for damage arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Indemnified Parties. Consultant’s indemnification obligation is not limited in any way by the amount or type of damages or compensation payable by the Compact. Consultant agrees to pay all costs relating to

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<sup>2</sup> Note to Consultant: In accordance with guidance issued by the Massachusetts Office of Attorney General, the Compact cannot indemnify private parties.

indemnification claims, including reasonable attorneys' fees incurred in investigating and responding to claims, within thirty (30) days of receipt of a payment request.

7.2 **Duty to Mitigate.** Each Party agrees that it has a duty to mitigate damages and covenants that it shall use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

7.3 **Limitations.** NO PARTY HERETO SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT. Notwithstanding the foregoing, Consultant acknowledges that the preceding sentence shall not limit the Compact's rights to seek indemnification from Consultant for consequential, punitive, or incidental damages or other such losses claimed by third parties.

7.4 **Liability.**<sup>3</sup> Consultant's liability under this Agreement shall not be limited to the value of the Services rendered under this Agreement; further, Consultant's liability shall not be limited by the availability of its insurance coverage. In no case shall the Compact's liability to Consultant exceed the total price for the Services rendered under this Agreement.

7.5 **Notice of Claims.** Consultant shall provide formal written notice to the Compact in the event that Consultant receives notice of pending or threatened litigation, claims or assessments against the Consultant or the Compact in connection with the Services rendered by the Consultant under this Agreement.

7.6 **Acknowledgment of Joint Powers Entity (JPE) Status.** Consultant understands that the Compact is a governmental entity, specifically a joint powers entity, and that its Members are the governmental units set forth in footnote 1 of this Agreement. Consultant understands and agrees that the Members assume no liability whatsoever for any of the debts and liabilities of the Compact, including, but not limited to, any obligations under this Agreement. Consultant further agrees and covenants that it will not sue or otherwise make any claim against any of the Members for any obligations, debts or liabilities of the Compact that may exist or accrue as a result of its obligations under this Agreement, or any acts or omissions related to the performance of such obligations.

7.7 **Governmental Immunities.** Consultant understands that the Compact is a governmental entity, and certain legal privileges, defenses and remedies are available to it. Nothing in this Agreement shall be construed to waive any of these privileges, defenses or remedies.

## SECTION 8 CHOICE OF LAW AND DISPUTE RESOLUTION

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<sup>3</sup> Note to Consultant: The Compact does not accept liability caps as a matter of public policy, and the constitutional prohibition on providing private parties with indemnification rights may also apply.

This Agreement shall be construed under and governed by the laws of the Commonwealth of Massachusetts, without regard to its rules regarding choice of laws. Any dispute that arises regarding this Agreement that cannot be resolved by informal negotiations shall be submitted to nonbinding mediation. If the Parties cannot agree upon a mediator, the Parties shall request that the American Arbitration Association, Boston, Massachusetts, appoint a mediator. Each Party shall bear its own mediation costs. Injunctive relief may be sought by either Party without resorting to mediation to prevent irreparable harm. Exclusive venue for any judicial proceeding involving a dispute arising from this Agreement shall be Barnstable County Superior Court, Massachusetts. In any judicial action, the “Prevailing Party” shall be entitled to payment from the opposing party of its reasonable costs and fees, including, but not limited to, attorneys’ fees arising from the civil action. “Prevailing Party” means the Party who most substantially prevails in its claims or defenses in the civil action. Consultant shall diligently carry on the Services and maintain the project milestone schedule during any dispute resolution proceedings, unless otherwise agreed to by the Compact in writing.

## **SECTION 9                    ASSIGNMENT AND SUBCONTRACTING**

Except as expressly permitted in Exhibit D, none of the Services shall be subcontracted or assigned, in whole or in part, without the prior written approval of the Compact, in its sole discretion. No subcontract or assignment shall relieve or discharge Consultant from any obligation or liability under this Agreement except as specifically set forth in the instrument of approval, and Consultant shall continue to be liable, jointly and severally, with the assignee for the fulfillment of all of the terms and conditions arising under this Agreement subsequent to the assignment. Consultant shall provide prompt notice to the Compact of any such permitted subcontract or assignment, together with the name and address of the assignee, and a copy of the subcontract or assignment instrument.

Consultant agrees that it retains full liability for the acts and omissions of its subcontractors (regardless of whether such subcontractors have been approved by the Compact). In addition, Consultant must ensure that any subcontractor who has been subcontracted, assigned or delegated thirty percent (30%) or more of the Services must abide by all of the terms and conditions of this Agreement, including, but not limited to, insurance requirements. The Compact reserves the right to impose these requirements on subcontractors performing less than thirty percent (30%) of the Services.

## **SECTION 10                CONFIDENTIALITY AND CUSTOMER INFORMATION**

**10.1 Confidentiality.** Through the term of this Agreement, the Parties may share certain confidential or proprietary information with each other. The Parties agree not to use this information for any purposes other than as needed to meet their respective obligations under this Agreement and to protect such information to the same standards as each Party holds its own confidential or proprietary information. The disclosure and use of such information shall also be governed by the Mutual Confidentiality and Nondisclosure Agreement dated March 18, 2022 (attached hereto as Exhibit E), and any subsequent non-disclosure agreements in which the Compact is a party and that involves the Services or obligations under this Agreement. Consultant agrees to submit the acknowledgment form set forth as Exhibit E concurrently with execution of this Agreement.

**10.2 Customer Information.** To the extent Consultant (or its subcontractors or any other party acting by or on behalf of Consultant) is provided or has access to Customer information, the following provisions apply: Consultant warrants and represents that the Consultant and its subcontractors and all other persons or entities having access to the Customer information by or through the Consultant have the appropriate safeguards in place to prevent the disclosure or use of any Customer information received from the Compact or its Customers, and further agrees to use such information solely for the purpose of performing Services for the Compact under this Agreement. Such safeguards shall include, without limitation, security policies, tools and processes restricting access to such Customer information to persons on a need-to-know basis, adequately training and notifying its employees and contractors of the restrictions associated with such information, identifying and correcting any impermissible use or disclosure, and immediately reporting any such use or disclosure. Consultant also agrees to comply with all applicable state, federal and local laws, regulations, codes and policies regarding the protection of Customer information, and the avoidance of theft or fraud through the improper use or disclosure of such information, including, without limitation, G.L. c. 93H and the regulations promulgated thereunder (including, without limitation, the maintenance of a Written Information Security Program in accordance with 201 C.M.R 17.00 et seq.). Upon the request of the Compact, the Consultant shall provide the Compact with detailed information and documentation regarding such safeguards, and with certifications regarding the same by an authorized officer of the Consultant, and the Compact shall have the right to monitor and audit the compliance of the Consultant at any time with the requirements of this provision. All such Customer information shall be returned to the Compact upon the Compact's request (or destroyed if so directed by the Compact), and the Consultant shall retain no copy or other record thereof. Consultant shall give immediate notice to the Compact of any incident that may cause such Customer information to be disclosed or otherwise used in an unauthorized manner. Such notice shall set forth all relevant information regarding the incident, including the specific nature and extent of the disclosure/use, the measures taken and to be taken to retrieve and restore the Customer information and/or to otherwise prevent the unauthorized use or disclosure of the Customer information. Consultant shall, at its sole cost, cooperate fully with the Compact and, as necessary, any law enforcement, regulatory authority, insurance carrier, auditors, attorneys and other parties in the investigation and evaluation of such incident, and shall implement at its sole cost any remedial measures recommended by any such parties as approved by the Compact. The Customer information shall remain confidential in all circumstances.

**SECTION 11 MISCELLANEOUS**

**11.1 Notices.** All notices, demands, requests, consents or other communications required or permitted to be given or made under this Agreement shall be in writing and

if to Consultant to:

[insert]

if to the Compact to:

Margaret T. Downey  
Cape Light Compact JPE Administrator

Cape Light Compact JPE  
261 Whites Path, Unit 4  
South Yarmouth, MA 02664  
[mdowney@capelightcompact.org](mailto:mdowney@capelightcompact.org) (email)

Except for any notice required by law to be given in another manner, all notices, waivers, demands, or other communications required or permitted by this Agreement to be effective shall be in writing, properly addressed, and shall be given by: (i) personal delivery; (ii) established overnight commercial courier delivery service with charges prepaid or duly charged by the sender; or (iii) registered or certified mail, return receipt requested, first class, postage prepaid. Notices given hereunder shall be deemed sufficiently given on: (i) the date of personal delivery if so delivered; (ii) the day after sending if sent by established overnight commercial courier delivery service; or (iii) the fifth day after sending if sent by registered or certified mail. Either Party may additionally provide notice by electronic mail, facsimile, or telephone communication, but this shall not relieve the Party of the obligation to provide notice as specified above.

**11.2 Entire Agreement; Amendments.** This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. To the extent any of the exhibits to this Agreement contain terms that conflict with the terms set forth in the main body of this Agreement or impose additional obligations on the Compact, the language in the exhibits shall be disregarded and shall be of no force and effect. This Agreement may only be amended or modified by a written instrument signed by both Parties hereto.

**11.3 Independent Contractor; No Joint Venture.** Consultant will perform all Services under this Agreement as an independent contractor. Consultant understands and agrees that none of its employees are Compact employees by virtue of entering into this Agreement. Nothing herein contained shall be deemed to constitute either Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of the Compact and Consultant hereunder are individual and neither collective nor joint in nature.

**11.4 Joint Workproduct; Independent Counsel.** This Agreement shall be considered the workproduct of both Parties hereto. Each Party acknowledges that it has been represented by independent counsel or has had the opportunity to seek counsel in connection with this Agreement and all matters pertinent to it, and each Party waives the benefit of the rules of construction providing that an agreement should be construed against its drafter. Notwithstanding the foregoing, Consultant agrees that if Exhibit A (Services) is primarily drafted by Consultant, any ambiguous terms contained therein shall be construed against Consultant.

**11.5 Waiver.** No waiver by either Party hereto of any one or more defaults by the other Party in the performance of any provision of this Agreement shall operate or be construed as a waiver of any future default, whether of like or different character. No failure on the part of either Party hereto to complain of any action or non-action on the part of the other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party so failing. A waiver of any of the provisions of this Agreement shall only be effective if made in writing and signed by the Party who is making such waiver.

**11.6 Records; Audit.** Consultant shall maintain books, records, and other compilations of data pertaining to the requirements of this Agreement to the extent and in such detail as shall properly substantiate claims for payment under this Agreement. Consultant agrees that the Compact may audit Consultant's books, records, and other compilations of data associated with the performance of this Agreement to ascertain that the payments requested by Consultant represent the value of the Services. All records shall be kept for a period of seven (7) years commencing on the first day after final payment under this Agreement. 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 the completion of the action and resolution of all issues resulting therefrom, or until the end of the retention period, whichever is later.

**11.7 Solicitation.** Consultant shall not solicit work from a Customer for two (2) years following termination of this Agreement for any reason, unless Consultant can prove that it has a pre-existing relationship with such Customer. For purposes of this section, "pre-existing relationship" means a relationship pursuant to which Consultant performed services for the Customer prior to performing services for that Customer under an energy efficiency services program run by the Compact, NSTAR Electric Company d/b/a Eversource Energy, or any other utility. Consultant may directly perform services for a Customer if such Customer has solicited Consultant. Consultant shall not engage in targeted solicitations using Customer information obtained as a result of its performance of the Services or otherwise related to this Agreement. The prohibitions in this section shall not apply to general marketing campaigns of Consultant.

**11.8 Headings and Captions.** The headings and captions appearing in this Agreement are intended for reference only, and are not to be considered in construing this Agreement.

**11.9 Political Activity Prohibited.** None of the Services to be provided by Consultant hereunder shall be used for any partisan political activity, to further the election or defeat of any candidate for public office, or in connection with any referendum question or legislative or grass-roots lobbying activities.

**11.10 Anti-Boycott Warranty.** Consultant hereby warrants that, during the term of this Agreement, neither it nor any "affiliate of the Consultant," as hereafter defined, shall participate in or cooperate with an international boycott, as defined in 26 U.S.C.A. §999 (b) (3) and (4), or engage in conduct declared unlawful by G.L. c. 151E, §2.

An “affiliate of the Consultant” shall be any business entity of which at least 51% of the ownership interests are directly or indirectly owned by Consultant, or by a person or persons or business entity or entities that directly or indirectly own at least 51% of the ownership interests of Consultant.

**11.11 Non-Discrimination in Employment and Affirmative Action.** Consultant shall take affirmative action to ensure that its employees, and any member of the public eligible for service under the Energy Efficiency Plan, are treated without regard to race, color, sex, marital status, sexual orientation, age, religion, national origin, ancestry, handicap, disability, or veteran status. Consultant agrees to comply with all applicable federal, state, and local laws, rules, and regulations prohibiting discrimination in employment and in public accommodations.

**11.12 Procurement Process.** This Agreement is intended to be a contract for “energy” and/or “energy related services” within the meaning of G.L. c. 30B, §1(b)(33) and therefore this Agreement is exempt from the competitive procurement procedures set forth in G.L. c. 30B. If applicable, it shall be the Compact’s obligation to comply with submission and reporting requirements of G.L. c. 30B, §1(b)(33). If this Agreement was procured under G.L. c. 30B, Consultant represents that it has provided all certifications required by such statute, or shall provide them concurrently with execution of this Agreement, including the certificates set forth in Exhibits F (Tax Compliance Certification) and G (Certificate of Non-Collusion ) attached hereto.

**11.13 Third-Party Beneficiaries.** Each Member is an intended third-party beneficiary of this Agreement, entitled to the full rights of this Agreement.

**11.14 Savings Clause.** If any section, sentence, clause, or other portion of this Agreement is for any reason held invalid or unconstitutional by any court, federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**11.15 Further Assurances.** From time to time and at any time at and after the execution of this Agreement, each Party shall execute, acknowledge and deliver such documents and assurances, reasonably requested by the other and shall take any other action consistent with the terms of this Agreement that may be reasonably requested by the other in order to effectuate the purposes and to carry out the terms of this Agreement.

**11.16 Survival of Obligations.** Termination of this Agreement for any reason shall not relieve either Party of any obligation accrued or accruing prior to such termination. In addition, the terms of Section 7 (Indemnification) and Section 8 (Dispute Resolution) and any other term that by its nature should survive, shall survive the expiration or termination of this Agreement.

**11.17 Diversity Certification.** Consultant shall provide the information requested on Exhibit H and shall provide updated diversity information during the term of Agreement upon request by the Compact.

11.18 **Counterpart Execution; Scanned Copy.** This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument. The Parties agree that a scanned or electronically reproduced copy or image of this Agreement bearing the signatures of the Parties hereto shall be deemed an original and may be introduced or submitted in any action or proceeding as competent evidence of the execution, terms and existence of this Agreement notwithstanding the failure or inability to produce or tender an original, executed counterpart of this Agreement and without the requirement that the unavailability of such original, executed counterpart of this Agreement first be proven.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the effective date first above written.

**CONSULTANT**

**CAPE LIGHT COMPACT JPE**

\_\_\_\_\_  
Signature  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Signature  
Margaret T. Downey  
Cape Light Compact JPE Administrator &  
Chief Procurement Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## **LIST OF EXHIBITS**

- Exhibit A - Services
- Exhibit B - Background Check Policy
- Exhibit C - Compensation
- Exhibit D - Pre-approved Subcontractors
- Exhibit E - Mutual Confidentiality and Nondisclosure Agreement dated March 18, 2022 and  
NDA Acknowledgment
- Exhibit F - Tax Compliance Certification
- Exhibit G - Certificate of Non-Collusion
- Exhibit H - Diversity Certification

## **EXHIBIT A SERVICES**

[The scope of Services developed, negotiated and finalized during the RFP or other procurement process should be attached as Exhibit A along with the two provisions set forth below.]

xx. ***Definitions.*** Any terms not defined in this Exhibit shall have the meanings assigned to them in the Agreement.

xx. ***Conflicts with Agreement.*** In the event of a conflict between the terms in this description of services and the terms of the Agreement, the terms of the Agreement shall control.

**EXHIBIT B**  
**BACKGROUND CHECK POLICY**

*REQUIREMENTS FOR CONSULTANT EMPLOYEE  
AND SUBCONTRACTOR BACKGROUND CHECKS*

The requirements set forth below shall apply to any services to be performed by Consultant under the Agreement. The individuals who perform the services under the Agreement, including employees, principals, and subcontractors are referred to herein as “Consultant Employees.”

These requirements for background checks represent the minimum requirements for Consultant, to be undertaken at Consultant’s expense. Additional requirements may be deemed appropriate by the Compact or Consultant, or may be required by law, regulation, or other bodies having jurisdiction over the services or Consultant. Consultant must comply with any such additional requirements as are known or should reasonably be known by it.

To the extent Consultant finds that any background check requirements are in conflict with State or Federal statutes, collective bargaining agreements, or other issues that would prohibit compliance, Consultant should notify the Compact so that Consultant and the Compact may discuss appropriate resolution of the issue.

Consultant must complete a background check before any Consultant Employee begins work under the Agreement, whether brought on at the outset of the Agreement or at any other point in the Agreement term. A Consultant Employee may only begin work under the Agreement in advance of the completion of background checks with the written approval of the Compact setting forth the number of calendar days for such allowance.

Consultant must be able to evidence that it has verified the identification of all Consultant Employees working for the Compact and that all such individuals are legally eligible to work in the country where the services are to be performed.

Consultant must ensure that all Consultant Employees working under the Agreement are subjected to a criminal history background check. Such checks must be conducted on all names, including alias names that are provided or developed, and include County, State and Federal checks based on jurisdictions of work and residence for the past seven (7) years, as well as international jurisdictions, if available. All checks must include both misdemeanors and felonies. If the Consultant has had a pre-employment criminal history check process in place and can provide documented evidence to the Compact that Consultant Employees working under the Agreement have been subjected to equivalent criminal history check, then additional checks are not necessary. If Consultant Employee has a felony or misdemeanor criminal record, the Compact reserves the right, in accordance with Section 2.4 (Staffing; Background Check Requirements) of the Agreement, to require Consultant to remove such Consultant Employee from the work site. If at any time during the term of the Agreement, Consultant becomes aware of information concerning a criminal conviction of Consultant Employee that would fit the above criteria for reporting to the Compact, Consultant shall forward this information to the Compact

and the Compact shall determine whether to remove the Consultant Employee from the work site.

All Consultant Employees required to operate a motor vehicle in conjunction with services provided to the Compact must be legally licensed and hold a valid driver's license appropriate to the vehicle being driven. This requirement applies to both Consultant-owned or leased vehicles and the Compact's owned/leased vehicles. If applicable, a motor vehicle driving record check to include a commercial driver license search must be annually conducted by Consultant to validate this requirement.

Consultant must maintain a record of all background checks completed in accordance with these requirements and correspondence with the Compact regarding background checks performed during the term of the Agreement and shall make all such records available to the Compact upon reasonable notice.

If it is determined at any time during the term of the Agreement that Consultant Employee performing services for the Compact does not meet the background qualifications set forth above, or has falsified a document that is or was part of the background check, Consultant shall immediately notify the Compact. The Compact will determine if the Consultant Employee should be removed from the work site.

In the event Consultant would like to utilize Consultant Employee to provide services under the Agreement despite adverse findings from any background check performed in accordance with these requirements, Consultant must submit a request in writing to the Compact, or its designee. The Compact shall evaluate all relevant background information and, in its sole discretion, shall make a determination whether the Consultant Employee should be allowed to perform services under the Agreement, and shall provide its determination in writing to Consultant.

The Compact reserves the right to perform, at its sole cost, audits of Consultant's background check program and records for any Consultant Employee performing services under the Agreement.

The Compact reserves the right to revise these requirements at any time during the term of the Agreement, which Consultant must comply with. Any revisions to these requirements will be provided in writing to Consultant.

Upon written request of Consultant, the Compact, in its sole discretion, may provide Consultant with a written modification or waiver of any of any of the background check requirements marked above.

*The Compact may treat all or a portion of the information on this Exhibit C as confidential, competitively sensitive information to the extent permitted by the Massachusetts Public Records Law (G.L. c. 4, §7, cl. 26(s)) or other applicable law.*

**EXHIBIT C  
COMPENSATION**

**EXHIBIT D**  
**PRE-APPROVED SUBCONTRACTORS**

None.

**EXHIBIT E**

Mutual Confidentiality and Nondisclosure Agreement dated March 18, 2022

**NDA ACKNOWLEDGMENT**

I hereby certify my understanding that the Confidential Information, as that term is defined in the Mutual Confidentiality and Nondisclosure Agreement dated March 18, 2022 (the “NDA”), is being provided to me pursuant to the terms and restrictions of the NDA. I also certify that I have been given a copy of the NDA, have read its terms and conditions, and agree to be bound by them. I understand that the contents of the Confidential Information and any parts of notes, memoranda, or any other form of information that contains such Confidential Information shall not be disclosed to anyone nor copied other than in accordance with the NDA, and shall be used only for the limited purposes stated therein. I also agree to protect the confidential and proprietary nature asserted for the Confidential Information.

I further acknowledge that, in the event that my role as a consultant or contractor of the Cape Light Compact JPE ceases, I shall return all copies of Confidential Information and destroy all parts of notes, memoranda, and other documents that contain such material in accordance with the NDA, and I shall continue to be bound by the terms and conditions of the NDA.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Organization: \_\_\_\_\_

**EXHIBIT F**  
**TAX COMPLIANCE CERTIFICATION**

Pursuant to G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

TAXPAYER ID: \_\_\_\_\_

**CONSULTANT**

\_\_\_\_\_  
Signature

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Date

**EXHIBIT G**  
**CERTIFICATE OF NON-COLLUSION**

The undersigned certifies under penalties of perjury that the bid or proposal it submitted in response to the RFP was made and submitted in good faith and without collusion or fraud with any person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

---

Signature of individual submitting bid or proposal

---

Consultant Name

**EXHIBIT H  
DIVERSITY CERTIFICATION**

**1. Has Consultant been certified by the Massachusetts Diversity Office (SDO) as one of the following:**

|                           |       |
|---------------------------|-------|
| Minority (MBE) business   | Y / N |
| Women (WBE) business      | Y / N |
| Portuguese (PBE) business | Y / N |
| Veteran (VBE) business    | Y / N |

If yes, please confirm that Consultant is listed in the Commonwealth of Massachusetts Directory of Certified Businesses on the SDO's website, or provide other evidence of certification. Y / N

**2. Has Consultant been certified by any of the following certain third party organizations recognized by the SDO as providing valid diversity certifications?**

|   |       |
|---|-------|
| Greater New England Minority Supplier Development Council (GNEMSDC) | Y / N |
| Center for Women & Enterprise (CWE) (New England - WBENC)           | Y / N |
| City of Boston  | Y / N |
| VetBiz/U.S. Department of Veterans Affairs                          | Y / N |
| NGLCC - National LGBT Chamber of Commerce                           | Y / N |
| Disability: IN (formerly The US Business Leadership Network-USBLN)  | Y / N |

If yes, please confirm that Consultant is listed in the Commonwealth of Massachusetts Directory of Certified Businesses on the SDO's website, or provide other evidence of certification. Y / N

**3. Is Consultant federally certified as a Disadvantaged Business Enterprise (DBE)?** Y / N

If yes, please confirm that Consultant is listed in the Commonwealth of Massachusetts Directory of Certified Businesses on the SDO's website, or provide other evidence of certification. Y / N

**4. Please provide any other pertinent information related to diversity certification (e.g., Consultant is in the process of applying for one or more of the above certifications):**

**ATTACHMENT C**

**CERTIFICATE OF NON-COLLUSION**

The undersigned certifies under penalties of perjury that the bid or proposal it submitted in response to the RFP was made and submitted in good faith and without collusion or fraud with any person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

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Signature of individual submitting bid or proposal

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Proposer Name/Title

## ATTACHMENT D

### COMPARATIVE EVALUATION CRITERIA

**[Note to Compact staff: Please tailor the comparative evaluation criteria to each RFP; the following criteria are drafting suggestions but can be pared down.]**

#### 1. General Quality of Response

*Highly Advantageous:* Proposer submits the most extensive and clear Proposal; met RFP requirements (including format), understanding of Project, completeness of Proposal.

*Acceptable:* Proposer meets all RFP requirements (including format), understanding of Project, completeness of Proposal.

*Not Advantageous:* Proposer meets all basic Proposal requirements, some follow-up for clarification and amplification of Proposal elements may be allowed.

*Unacceptable:* Proposer does not meet one or more RFP requirements.

#### 2. General Background Statements (Section 6(B))

*Highly Advantageous:* Proposer's background statements indicate that (i) there have been not insolvency proceedings in the last five (5) years; (ii) there has been no litigation in the last five (5) years; (iii) there has been no investigation by a state or federal agency in the last five (5) years; and (iv) there have been no consumer complaints filed with a state, federal, or local agency, against the business or affiliate within the last five (5) years.

*Acceptable:* Proposer's background statements indicate that (i) there have been not insolvency proceedings in the last five (5) years; and (ii) there has been one (1) or more instances of litigation, investigation or complaints in the last five (5) years, but Proposer provided a reasonable and satisfactory explanation of such events.

*Not Advantageous:* Proposer's background statements indicate that either (i) there has been insolvency proceedings in the last five (5) years; or (ii) there have been numerous instances of litigation, investigation or complaints in the last five (5) years.

*Unacceptable:* Proposer's background statements indicate that (i) there has been insolvency proceedings in the last five (5) years; and (ii) there have been numerous instances of litigation, investigation or complaints in the last five (5) years.

#### 3. Project Team/Staffing Requirements (Section 6(C))

*Highly Advantageous:* Proposer's Project Team resumes demonstrate continuous involvement in the relevant fields including demonstrated experience [with governmental organizations], and show a broad range of skills sufficient to complete the Project. Key staff has outstanding

personal recommendations and specifically relevant experience. Organizational capacity available to complete the Project is strong.

*Advantageous:* Proposer's Project Team resumes demonstrate involvement in the relevant fields show adequate skills sufficient to complete the Project. Key staff has good personal recommendations. Organizational capacity available to complete the Project is adequate.

*Not Advantageous:* Proposer's Project Team resumes show sporadic involvement in the relevant fields and some of the skills sufficient to complete the Project.

*Unacceptable:* Proposer's resumes show sporadic involvement in the relevant fields and show few of the skills sufficient to complete the Project.

#### 4. Redlined Scope of Work (Section 6(D)(1))

*Highly Advantageous:* Proposer submits no or few changes to the Scope of Work, or the changes submitted provided clarity or improved the Scope of Work.

*Advantageous:* Proposer submits some changes to the Scope of Work.

*Not Advantageous:* Proposer submits many changes to the Scope of Work.

*Unacceptable:* Proposer submits a heavily redlined Scope of Work.

#### 5. Related Experience (Section 6(D)(2))

*Highly Advantageous:* Proposer cites five (5) or more examples of past work on similar projects [for public sector?].

*Advantageous:* Proposer cites three (3) or more examples of past work on similar projects.

*Not Advantageous:* Proposer cites one (1) or more examples of past work on similar projects.

*Unacceptable:* Proposer has no experience with similar projects.

#### 6. Reference Checks (Section 6(E))

*Highly Advantageous:* Outstanding recommendations from all reference checks, at least three (3) of which involved similar projects.

*Advantageous:* Outstanding recommendations from all reference checks.

*Not Advantageous:* Good or "would-repeat" recommendations.

*Unacceptable:* Some references which indicate caution or express reservations.

7. Redlined Contract (Section 6(F))

*Highly Advantageous:* Proposer submits no or few changes to the Contract, or the changes submitted provided clarity or improved the Contract.

*Advantageous:* Proposer submits some changes to the Contract.

*Not Advantageous:* Proposer submits many changes to the Contract.

*Unacceptable:* Proposer submits a heavily redlined Contract.

8. Supplier Diversity (Section 6(G))

*Highly Advantageous:* Proposer is currently certified by the Commonwealth of Massachusetts Supplier Diversity Office.

*Advantageous:* Proposer provides documentation of a diverse workforce (for example, Equal Opportunity Employer Information Report or equivalent).

*Not Advantageous:* Proposer has a published policy to support diversity, but have no documentation of a diverse workforce.

*Unacceptable:* Proposer has no diversity initiatives or policies.

Supplier diversity status is one component of this procurement, and it is not a determinative factor.

9. Interviews (if applicable)

*Highly Advantageous:* Members of Proposer's key staff represented Proposer at the interview presentation Proposer demonstrated in a clear and effective oral presentation/interview a high level of expertise and experience in the services required in this RFP. Proposer provides complete, highly satisfactory answers and provides a presentation that demonstrates good understanding of the Compact's particular needs.

*Advantageous:* Members of Proposer's key staff represented Proposer at the interview presentation Proposer demonstrated in a clear and effective oral presentation/interview a moderate level of expertise and experience in the services required in this RFP. Proposer provides thoughtful, well-considered answers and a thorough presentation at interview.

*Not Advantageous:* Proposer was not able to demonstrate in a clear and effective oral presentation/interview a moderate level of expertise and experience in the services required in this RFP. Proposer provides satisfactory answers and presentation at interview.

*Unacceptable:* Proposer provides unsatisfactory answers, a poor presentation, or does not attend interview.

**ATTACHMENT E**  
**PROPOSAL CHECKLIST**

Proposer has submitted the following as part of its Proposal:

- \_\_\_ 1. Cover letter with signature. [Section 6(A)]
- \_\_\_ 2. Statement that the Proposal is submitted in accordance with this RFP, and that Proposer has read and understands all sections of the RFP. [Section 6(A)]
- \_\_\_ 3. Business names, address, taxpayer identification. [Section 6(B)]
- \_\_\_ 4. Company profile. [Section 6(B)]
- \_\_\_ 5. Four background statements. [Section 6(B)]
- \_\_\_ 6. Identification of Project staff and assigned roles. [Section 6(C)]
- \_\_\_ 7. Resumes for key staff. [Section 6(C)]
- \_\_\_ 8. Organizational capacity. [Section 6(C)]
- \_\_\_ 9. Resumes and qualifications of subcontractors or consultants. [Section 6(C)]
- \_\_\_ 10. Schematic diagram. [Section 6(C)]
- \_\_\_ 11. Proposed edits to Scope of Work. [Section 6(D)]
- \_\_\_ 12. Statements regarding related experience. [Section 6(D)]
- \_\_\_ 13. References. [Section 6(E)]
- \_\_\_ 14. Redlined Contract or Contract acceptance letter. [Section 6(F)]
- \_\_\_ 15. Diversity certification documentation. [Section 6(G)]
- \_\_\_ 16. Pricing Proposal (including pricing schedule and budgets). [Section 7]
- \_\_\_ 17. Certificate of Non-Collusion. [Attachment C]
- \_\_\_ 18. Checklist (this document). [Attachment E]
- \_\_\_ 19. Other from Specific Qualifications. [Section 6]: Microsoft-Certified Solution Provider and a Cisco/Meraki partner in good standing

