



MANDATORY LEGAL TERMS IN MCEC BRIDGE FACILITY FINANCE DOCUMENTS

The Maryland Clean Energy Center ("MCEC") is a body politic and corporate and an instrumentality of the State of Maryland. MCEC provides financing projects through the Bridge Finance Facility ("BFF"), which include funds provided from the State's Strategic Energy Investment Fund ("SEIF") Program.

Financing provided by MCEC through the BFF involves the use of public funds from government sources aimed at clean energy technology deployment in Maryland. Accordingly, various Maryland laws apply to the financial assistance provided.

The following is a list of contractual provisions and requirements that are typical for MCEC-related financing that an applicant for financing through the BFF should expect to agree to. The list, however, may not be exhaustive for a specific transaction and is subject to the additional requirements in the BFF Credit Policy and Manual. Some transactions may also require specific representations, warranties, and covenants.

- **Sovereign Immunity, Binding Arbitration, Power of Attorney.** Sovereign immunity mandates that MCEC does not: (1) consent to the jurisdiction of courts outside of a state court in Maryland; (2) agree to any form of binding arbitration; (3) submit to the law of another state or country that would implicate sovereign immunity; or (4) agree to blanket powers-of-attorney, proxies, or similar documents.
- **Limitations on Future Financial Commitments.** Because investment dollars and related public funds are generated through the Maryland General Assembly's appropriations process, MCEC cannot agree to future financial commitments (such as indemnification, contribution obligations, attorney fees, or "prevailing party" legal expenses or any other similar expenses) outside of that appropriations process.
- **Maryland Disclosure Requirements.** MCEC is subject to the Maryland Public Information Act, Annotated Code of Maryland, General Provisions Article, Sections 4-101 to 4-601 ("PIA") and Maryland Open Meetings Act, Annotated Code of Maryland, General Provisions Article, Sections 3-101 to 3-501 ("OMA"). The PIA and OMA generally prohibit the disclosure of trade secrets, "confidential commercial" or "confidential financial" information, but the ultimate determination as to disclosure may be made by a court. MCEC will not disclose confidential information of the applicant for financial assistance or its affiliates except as required by law. If MCEC decides to disclose confidential information to be in compliance with the law, MCEC may provide the applicant with written notice so that the applicant may seek a protective order or another appropriate remedy from the court.
- **Amendments, waivers, and termination provisions.** Prior written consent of MCEC is required before any Maryland-specific contractual provisions are amended, waived, or deleted, or any rights exclusive to MCEC are otherwise impaired.
- **Restricted Use and Reporting.** The financial assistance provided through the BFF may not be used to cover general operational costs and must meet the parameters allowed under the law regarding the use of SEIF funds. The business will be expected to provide periodic reporting on the use of the financial assistance in order to comply with relevant State reporting requirements.
- **Closing Deliveries.** The business applying for financial assistance from the BFF will be required to provide these minimum closing deliveries typical of transactions in the private sector (certificate of secretary with supporting corporate approvals and governing documents, good standing certificates for Maryland and state of formation, sufficient insurance coverage).
- **Maryland-specific representations, warranties and covenants** related to satisfaction of the requirements of a "qualified business," the business' relationship with the State of Maryland and compliance with all federal, Maryland and local laws (taxation, regulatory, etc.).