

**MEMORANDUM OF UNDERSTANDING**  
BETWEEN  
THE NEW JERSEY BOARD OF PUBLIC UTILITIES,  
AND  
THE CLEAN ENERGY AND SUSTAINABILITY ANALYTICS CENTER AT MONTCLAIR  
STATE UNIVERSITY

**THIS MEMORANDUM OF UNDERSTANDING** (“MOU”) is made this 7 day of January 2022 by and between the **NEW JERSEY BOARD OF PUBLIC UTILITIES** (“BPU” or “Board”) through its Division of Clean Energy (“DCE”), and **MONTCLAIR STATE UNIVERSITY** (“MSU”) through its Clean Energy and Sustainability Analytics Center (“CESAC”) (collectively, the “Parties”) setting forth the roles and responsibilities of the Parties in connection with the development of a plan for the New Jersey Fuel Cell Task Force created by Governor Phil Murphy on June 19, 2020 being L. 2020, c. 38 (“Task Force”). The BPU and MSU are both instrumentalities of the State of New Jersey.

**BACKGROUND:**

WHEREAS, the BPU is charged with the authority to ensure that safe, adequate, and reliable utility services are provided at reasonable, non-discriminatory rates to all members of the public who desire such services and to develop and regulate a competitive, economically cost-effective energy policy that promotes responsible growth and clean renewable energy sources while maintaining a high quality of life in New Jersey;

WHEREAS, the CESAC at MSU is a not for profit entity and public research and technical assistance center, which provides support for clean energy policies, technology, and practices through research, analysis, and education programs;

WHEREAS, the New Jersey Global Warming Response Act of 2007 (“GWRA”) sets targets for New Jersey to reduce greenhouse gas (“GHG”) emissions by 80 percent from 2006 levels by 2050;

WHEREAS, the Governor created the Task Force to develop a plan to increase the use of fuel cells in the State and to provide information, education, and resources for that purpose;

WHEREAS, the Task Force shall serve as a resource to State departments and local governments on fuel cell issues; assist in the growth of fuel cell businesses in the State; increase the use of fuel cells throughout State government departments and agencies; develop a strategy for the development of infrastructure to support the use of fuel cells; and provide information and educational materials to the public, government, and industry about the use and benefits of fuel cells;

WHEREAS, the Task Force is required to issue a report in April 2022 detailing the Task Force’s plan to increase the use of fuel cells in the State, including any recommendations for legislative or regulatory action that are necessary to effectuate the plan.

NOW, THEREFORE, in consideration of the promises and mutual representations, warranties, and covenants herein contained, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

I. SCOPE OF THE MOU

This MOU defines the framework and conditions under which the Parties intend to establish a cooperative relationship to the mutual benefit of the Parties and the residents of New Jersey. As detailed below, the Parties will participate in a collaborative effort to provide a timely and robust report for the Task Force that includes background information, an analysis of fuel cells and hydrogen and their role in the clean energy economy, and recommendations for legislative or

regulatory action, along with policies and programs that are necessary to effectuate the goals of the Task Force. The Task Force will develop the framework for the report and drive the content with CESAC at MSU providing strong support, recommendations for improvement, and background information. The terms and conditions included herein represent the entire scope of this agreement and supersede all former representations, whether written or verbally communicated.

## II. DUTIES OF THE PARTIES

1. CESAC at MSU shall be familiar with the 2019 New Jersey Energy Master Plan; the new Jersey Department of Environmental Protection's 2020 New Jersey Global Warming Response Act 80x50 Report; P.L. 2018, c.17 (the Clean Energy Act) and P.L. 2020, c.38; relevant Executive Order, including E.O. 28 (5/23/2018); New Jersey Transit's "NJ TRANSITGRID" program; State incentive programs such as Choose NJ and EDA programs; McKinsey Roadmap to a US Hydrogen Economy; studies performed by the Hydrogen Council; the California Fuel Cell Partnership; reports from the Fuel Cell & Hydrogen Energy Association; and National Academies Assessment of Technologies for Improving Fuel Economy of LDVs;
2. CESAC at MSU will lead, plan, research, and provide expertise and any technical assistance necessary for roadmap research, development, and dissemination, as set forth in the October 29, 2021 Request for Responses;
3. BPU will advise the CESAC at MSU in this collaborative effort, as necessary; serve as a liaison to outside parties as necessary; attend and contribute to CESAC at MSU meetings; and inform the Task Force of development of this report and dissemination to align with the legislation and other relevant state policies and the 2019 NJ Energy Master Plan.

### III. DESIGNATED REPRESENTATIVES

Written communication among the Parties for the purpose of this MOU as defined above shall be delivered to the following representatives:

New Jersey Board of Public Utilities  
Attn: Division of Clean Energy Director  
44 S. Clinton Avenue, 9<sup>th</sup> Floor  
Trenton, NJ 08625

The Clean Energy and Sustainability Analytics Center  
Montclair State University  
Overlook Corporate Center  
150 Clove Road, Suite 200B  
Little Falls, NJ 07424

### IV. MISCELLANEOUS

A. Subject to the Availability of Funds. All obligations of the Parties pursuant to this MOU are subject to appropriations and the availability of funds. A failure by the Parties to perform any condition on its part to be performed under this MOU as a result of the failure of the Legislature to appropriate funds shall not in any manner constitute a breach or default by the Parties.

B. No Personal Liability. No official or employee of BPU shall be charged personally by CESAC at MSU or MSU, its employees, agents, contractors, or subcontractors with any liability or held liable to CESAC at MSU or MSU, its employees, agents, contractors, or subcontractors under any term or provision of this MOU or because of its execution or attempted execution or because of any breach or attempted or alleged breach of this MOU.

No official or employee of CESAC at MSU or MSU shall be charged personally by BPU, its employees, agents, contractors, or subcontractors with any liability or held liable to BPU, its employees, agents, contractors, or subcontractors under any term or provision of this MOU or

because of its execution or attempted execution or because of any breach or attempted or alleged breach of this MOU.

C. Captions. The captions appearing in this MOU are inserted and included solely for convenience and shall not be considered or given effect in construing this MOU, or its provisions, in connection with the duties, obligations, or liabilities of the Parties or in ascertaining intent, if a question of intent arises. The preambles are incorporated into this paragraph as though set forth in verbatim.

D. Entirety of Agreement. This MOU represents the entire and integrated agreement between the Parties and supersedes any and all prior agreements or understandings (whether or not in writing). No modification or termination hereof shall be effective unless in writing and approved as required by law.

E. Amendments. This MOU may be amended or extended by the written request of any Party and with the consent of the other Parties as needed for the production of a substantive report to be provided to the Task Force. Any proposed amendment of this MOU shall be submitted by one Party to the other Parties at least five (5) business days prior to formal discussion or negotiation of the issue. Any amendment of this MOU shall be set forth in writing and signed by an authorized representative of each Party in order to become effective.

F. No Third-Party Beneficiaries. This MOU does not create in any individual or entity the status of third-party beneficiary, and this MOU shall not be construed to create such status. The rights, duties, and obligations contained in this MOU shall operate only among the Parties and shall inure solely to the benefit of the Parties. The provisions of this MOU are intended only to assist the Parties in determining and performing their obligations under this MOU. The Parties intend and expressly agree that only the Parties shall have any legal or equitable right to seek to

enforce this MOU, to seek any remedy arising out of a Party's performance or failure to perform any term or condition of this MOU, or to bring any action for breach of this MOU.

G. No Assignment. This MOU shall not be assignable, but shall bind and inure to the benefit of the Parties hereto and their respective successors.

H. Governing Law. This MOU and the rights and obligations of the Parties shall be interpreted, construed, and enforced in accordance with the laws of the State of New Jersey. This MOU shall be subject to all the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq. Any claims asserted against the State in connection with this MOU shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq. It is acknowledged by all Parties that the Parties are covered by the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. and the New Jersey Tort Claims Fund.

I. Authority. By execution of this MOU, the Parties represent that they are duly authorized and empowered to enter into this MOU and to perform all duties and responsibilities established in this MOU.

J. Term. This MOU shall be effective as of the date hereinabove written and, unless terminated as set forth below, shall remain in effect for a term of one (1) year.

K. Termination. Board Staff and DCE Staff may terminate this MOU upon thirty (30) days' written notice. The Parties shall consult on the conditions of the termination, including the date on which the termination shall take effect. The Parties shall meet within sixty (60) days after the effective date of the termination to settle accounts.

L. Counterparts. This MOU may be executed in duplicate parts, each of which shall be an original, but all of which shall together constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS THEREOF, the Parties have signed this Memorandum of Understanding on the date first written above.

Witness:

Montclair State University

Catherine Bruno

By: Frederic J. Russo

01/07/22

Dated: \_\_\_\_\_

Witness:

New Jersey Board of Public Utilities

Aida Camacho-Welch

By: Joseph L. Fiordaliso

Joseph L. Fiordaliso, President

Dated: December 15, 2021

APPROVED AS TO FORM:

Andrew J. Bruck

Acting Attorney General, State of New Jersey

By: Matko Ilic

Matko Ilic

Deputy Attorney General

Dated: January 6, 2022