

AGREEMENT ON THE PROVISION OF FINANCIAL ASSISTANCE IN THE AMOUNT OF \$ 2 000 000 US FOR THE MANAGEMENT OF CERTAIN PARTS OF THE CAP-AND-TRADE SYSTEM FOR GREENHOUSE GAS EMISSION ALLOWANCES

BETWEEN

THE MINISTRE DE L'ENVIRONNEMENT, DE LA LUTTE CONTRE LES CHANGEMENTS CLIMATIQUES, DE LA FAUNE ET DES PARCS, for and on behalf of the Government of Québec, represented by Ms Marie-Josée Lizotte, Deputy Minister,

Hereinafter referred to as the "**Minister**";

AND

WESTERN CLIMATE INITIATIVE, INC., a body corporate incorporated under the General Corporation Law (Delaware Code, Title 8, Chapter 1) of the State of Delaware, located at 1107 Ninth Street, Suite 1070, Sacramento, California, represented by M. Greg Tamblyn, Executive Director of Western Climate Initiative, Inc.

Hereinafter referred to as "**WCI, Inc.**";

Hereinafter collectively referred to as "the parties".

PREAMBLE

WHEREAS cap-and-trade systems for greenhouse gas emission allowances are a flexible market mechanism capable of facilitating absolute reductions of greenhouse gas emissions while providing an opportunity to reduce total costs associated with emission reduction for the government that implement such as a system;

WHEREAS linkages among the cap-and-trade systems for greenhouse gas emission allowances implemented by various states and provinces may help reducing emissions at lower costs, result in a broader exchange market, improve liquidity of the carbon market and stimulate innovation;

WHEREAS the State of California adopted the California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms (Subchapter 10 Climate Change, Article 5, Sections 95800 to 96023, Title 17, California Code of Regulations), a regulation regarding the implementation of a cap-and-trade-system for greenhouse gas emission allowances and a related offset credit system;

WHEREAS the Government of Québec adopted the Regulation respecting a cap-and-trade system for greenhouse gas emission allowances (CQRL, chapter Q-2, r. 46.1);

WHEREAS the Government of the State of California and the Government of Québec are among the founding jurisdictions of the non-profit corporation Western Climate Initiative, Inc., constituted in October 2011 under the laws of the State of Delaware and the State of Washington became a member of the corporation in December 2021;

WHEREAS WCI, Inc. provides administrative and technical services to the participating jurisdictions of **WCI, Inc.** with respect to the implementation of their respective cap-and-trade systems for greenhouse gas emission allowances;

WHEREAS the government of Québec has undertaken, such as the Gouvernement of the State of California and the Government of the State of Washington to participate in the financing of **WCI, Inc.** activities;

WHEREAS participating jurisdiction contributions currently constitute the unique source of funding for **WCI, Inc.**;

WHEREAS, according to the Agreement on the Harmonization and Integration of Cap-and-Trade Programs for Reducing Greenhouse Gas Emissions signed in Québec City on September 22, 2017 and in Los Angeles, on October 5, 2017 the government of the State of California and the Government of Québec have stated their intention to link their cap-and-trade systems for greenhouse gas emission allowances;

WHEREAS, according to this Agreement, the WCI, Inc. participating jurisdictions shall continue coordinating the administrative and technical support of their cap-and-trade system through the **WCI, Inc.**

WHEREAS, by Orders in council 606-2012 dated June 13, 2012, 539-2014 dated June 18, 2014, 148-2016 dated March 9, 2016, 135-2018 dated February 20, 2018, 305-2020 dated March 25, 2020 and 498-2022 dated March 23, 2022 the Gouvernement of Québec paid amounts to **WCI, Inc.** for its fiscal years 2012 to 2023;

WHEREAS, by Order in council 293-2024 dated February 21, 2024, the Gouvernement of Québec is authorized to pay, during its fiscal years 2023-2024 and 2024-2025, financial assistance of a maximum amount of \$ 2,000,000 US to the **WCI, Inc.** for the management of certain parts of a cap-and-trade system for greenhouse gas emission allowances, subject to the availability of sums to this effect in the Electrification and Climate Change Fund.

THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. PURPOSE OF THE AGREEMENT

The purpose of this agreement is for the provision by the **Minister** of a maximum of two million US dollars (**\$ 2,000,000 US**) in financial assistance to the **WCI, Inc.** non-profit corporation, for the management of certain parts of a cap-and-trade system for greenhouse gas emission allowances.

The mandate of **WCI, Inc.** includes four (4) major components:

- Implementing a tracking system for monitoring all emissions allowances issued by the **Minister** and providing the services associated with using and operating the system, including but not limited to:
 - creating, hosting and ensuring the functioning of the tracking system;
 - ensuring the system's security.
- Hosting and maintaining an auction and reserve sale platform and ensuring the platform's security;

- Administering allowance auctions and reserve sales, including the administration of registrations for those auctions or sales, the management and evaluation of financial guarantees submitted, and the monitoring of those sales as well as the calculation of their results, firstly, for certification by appropriate jurisdiction authorities, and secondly, the processing of sums owed to the **Minister**, for payment into the Electrification and Climate Change Fund in accordance with paragraph 5° of section 15.4 of the *Act Respecting the Ministère du Développement durable, de l'Environnement et des Parcs* (CQLR, chapter M-30.001), in payment of emission units sold;
- Conduct the monitoring of transactions of emission allowances and any other system-related operation in collaboration with Québec authorities.

Services provided by **WCI, Inc.** should provide for any linking of the Québec's cap-and-trade system with another state or province designated by the **Minister**.

2. TERMS OF DISBURSEMENT

The amount of financial assistance provided for in Section 1 will be paid by the **Minister** to **WCI, Inc.** in the following manner:

- 1° in the first quarter of 2024 or at the latest within thirty (30) days following the date of the last signature of this agreement, the **Minister** agrees to pay a first instalment of one million US dollars (**\$ 1,000,000 US**);
- 2° in the first quarter of 2025, the **Minister** agrees to pay the balance of Québec's contribution in the amount of one million US dollars (**\$ 1,000,000 US**).

The fiscal year of **WCI, inc.** starts on January 1st and ends on December 31st.

3. OBLIGATIONS OF THE PARTIES

3.1 The **Minister** undertakes to:

- 3.1.1 provide **WCI, Inc.** with relevant technical assistance for achieving the objective of this agreement, subject to the availability of its human and material resources;
- 3.1.2 support financially **WCI, inc.** by the payment in the maximum amount of two million US dollars (**\$ 2,000,000 US**).

3.2. **WCI, Inc.** undertakes to:

- 3.2.1 use the payment granted by this agreement solely for the purposes specified herein unless this amount is postponed, with the agreement of the **Minister**, on a financial year posterior than those aimed by the present agreement;

- 3.2.2 submit to the **Minister**, within one hundred fifty (150) days following the end of each fiscal year, a report containing a review of its activities and its audited financial statements;
- 3.2.3 upon request, provide the **Minister** with any document or information, in its possession or under its control, relevant to the execution of this agreement;
- 3.2.4 conserve all documents related to the execution of this agreement for a period of seven (7) years following its expiration, grant access to such documents to a representative of the **Minister** and allow such representative to take copies of them;
- 3.2.5 comply with applicable legislation, regulations, orders in council, ministerial orders and standards.

4. **TERM OF THE AGREEMENT**

This agreement shall take effect on the date on which it is signed by the last of the parties and will end on the date when its purpose and the obligations provided for in this agreement have been met or on May 31, 2026 at the latest.

5. **RESPONSIBILITIES**

WCI, Inc. shall be responsible for any damages caused by it, its employees, agents, representatives or subcontractors under, or in connection with, that may result from executing this agreement, including damages resulting from a breach of an undertaking made under this agreement.

WCI, Inc. undertakes to indemnify and hold harmless the **Minister**, his representatives and the government against any recourse, appeal, claim, demand, lawsuit or other procedure initiated by any person that may result from executing this agreement.

6. TERMINATION

The **Minister** reserves the right to terminate this agreement if:

- 1° **WCI, Inc.** has presented false or misleading information or made false representations;
- 2° he believes there is a situation that, for reasons of public interest, casts doubt on the purpose for which the agreement is reached;
- 3° **WCI, Inc.** fails to meet any of the terms, conditions and obligations under this agreement;
- 4° **WCI, Inc.** ceases its activities in any way whatsoever, including as a result of its bankruptcy or of liquidation or assignment of its property.

In terminating the Agreement under the terms set forth in subsections 1° through 4°, the **Minister** must comply with the requirements of the termination and withdrawal procedures set forth in Exhibit A attached to this Agreement. If the Contingencies (as that term is defined in Exhibit A) are not yet satisfied, the **Minister** may terminate the Agreement upon thirty (30) days' prior written notice submitted to **WCI, Inc.**

The **Minister's** failure to exercise his right of termination should not be construed as a waiver of that right.

This Agreement may be terminated by **WCI, Inc.** upon the **Minister's** material breach of the Agreement and upon **WCI, Inc.'s** compliance with the termination provisions set forth in this paragraph. **WCI, Inc.** must provide written notice to the **Minister** of the **Minister's** material breach of the Agreement ("Breach Notice"). **WCI, Inc.** may terminate the Agreement if the breach is not cured by the **Minister** within sixty (60) days of the **Minister's** receipt of the Breach Notice by providing the **Minister** with a written notice of termination ("Termination Notice"). The Termination Notice shall have the same effect as if the **Minister** provided a Notice of Termination (as that term is defined in Exhibit A). The Termination Notice shall trigger the Procedures (as that term is defined in Exhibit A) including, without limitation the withdrawal procedures as set forth in Article X, Section 10.1 of WCI, Inc. Bylaws. All other terms and the Procedures set forth in Exhibit A shall apply to the termination of this Agreement and withdrawal of Québec from **WCI, Inc.** with the same force and effect as if Québec provided the Notice of Termination on the date upon which the **Minister** received the Termination Notice.

7. ASSIGNMENT

The rights and obligations provided for in this agreement may not, under pain of nullity, be assigned in whole or in part, without the prior written authorization of the **Minister**, who may then set conditions to these purposes.

8. AUDIT

The payment of the amount as well as any other transactions made under the execution of this agreement may be audited by the **Minister** or by any other person or body of the Government of Québec in the performance of his or her duties or the tasks entrusted to him or her.

9. AMENDMENTS

Any amendments to the content of this agreement must be agreed upon in writing by the parties. Such amendments cannot change the nature of the initial agreement and shall become an integral part of it.

10. RESOLVING DISPUTE

In the event a dispute shall arise while executing this agreement or regarding its interpretation, the parties undertake, before exercising any recourse, to seek an amicable solution to the dispute and, if necessary, involve a third party under the terms to be agreed upon to help them resolve the issue.

In the event of such a dispute, **WCI, Inc.** shall continue with its responsibilities under the agreement.

11. SUBCONTRACTING

WCI, Inc. shall obtain authorization from the **Minister's** representative prior to the conclusion of any subcontract related to the execution of its mandate. The **Minister** reserves the right to refuse any subcontract without the need to provide a rationale for his decision.

When its mandate involves the participation of subcontractors, the mandate's completion and resulting obligations shall remain the responsibility of **WCI, Inc** which undertakes that any subcontractor will comply with all the obligations and conditions imposed to **WCI, Inc** by this agreement.

12. INDEPENDENCE OF PARTIES

WCI, Inc., its employees, agents, representatives, partners and subcontractors, shall not act as a representative of the **Minister**, the Ministère de l'Environnement, de la Lutte contre les changements climatiques, de la Faune et des Parcs or the Government of Québec while executing this agreement.

13. LINGUISTIC OBLIGATIONS

Except as otherwise approved by the **Minister**, all services, communications and documents produced by **WCI, Inc.** from executing this agreement must be available:

- a) in French and of a quality deemed satisfactory by the **Minister**;
- b) in the same time as their English version.

In addition, all communication with users of the services provided by **WCI, Inc.** shall be in English and French. Staff working on behalf of **WCI, Inc.** called upon to communicate with Francophone users must speak French fluently.

14. PROTECTION OF PERSONAL AND CONFIDENTIAL INFORMATION

14.1 Definitions:

- 14.1.1 “Personal information”: Any information that concerns a natural person and that can be used to identify that person;
- 14.1.2 “Confidential information”: Any information whose access is accompanied by one or more restrictions provided for in the *Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information* (CQRL, chapter A-2.1), hereinafter the “Act Respecting Access,” including information having an impact on intergovernmental relations, negotiations between public bodies, the economy, the administration of justice and public security, administrative or policy decisions or audit.

14.2 WCI, Inc. shall make a commitment to the **Minister** to comply with each of the provisions applicable to personal and confidential information listed below, whether the information is provided under the execution of this agreement or generated in connection with its execution:

- 14.2.1 Inform its staff of the rules under the Act Respecting Access as well as of the obligations specified in these provisions and disseminate all relevant information in this regard;
- 14.2.2 Make personal and confidential information accessible only to its employees, agents, representatives or subcontractors who are qualified to receive it, when it is necessary for performing their duties and is used for the purposes for which it was collected or where the law authorizes its use;
- 14.2.3 Refrain from disclosing, without the consent of the person concerned, personal information to anyone except in instances involving subcontracts and in accordance with subsection 14.2.13;
- 14.2.4 Submit the consent to disclosure of personal information form of the person concerned for approval by the **Minister**;

- 14.2.5 Use personal and confidential information solely for the purpose of the execution of its mandate;
- 14.2.6 Collect personal information on behalf of the **Minister** only in cases where it is necessary for the purpose of the execution of its mandate and give advance notice to any person subject to such information gathering as to how the information will be used as well as the other elements referred to in Section 65 of the Act Respecting Access;
- 14.2.7 Take all safeguards required to ensure the confidentiality of personal confidential information at all stages of the execution of its mandate;
- 14.2.8 Upon request by the **Minister**, destroy, at its own expense, personal and confidential information in accordance with such instructions as may be given by the **Minister** or his representatives in a timely manner and send to the **Minister**, within sixty (60) days after the request, a certificate confirming the destruction of personal and confidential information, signed by an authorized person that he will have designated for this purpose;
- 14.2.9 Immediately inform the **Minister** of any breach of the obligations under these provisions or any event that might impair the security or confidentiality of personal and confidential information;
- 14.2.10 Provide, at the request of the **Minister**, all relevant information regarding the protection of personal and confidential information and give any person designated by the **Minister** access to documentation, systems, data and physical facilities related to its mandate in order to ensure compliance with these provisions;
- 14.2.11 Comply with the information security objectives and requirements defined by the **Minister**;
- 14.2.12 Subject to any particular confidentiality agreement between the parties concerning the disclosure of information, obtain the **Minister's** written authorization before providing or transferring any personal and confidential information whatsoever, even for technical purposes, outside of Québec.
- 14.2.13 When the execution of its mandate is entrusted to a subcontractor and involves providing personal and confidential information by **WCI, Inc.** to the subcontractor or the collection of personal and confidential information by the subcontractor:
- submit to the **Minister** for approval the list of personal and confidential information provided to the subcontractor;
 - sign a contract with the subcontractor stipulating the same obligations as those specified in these provisions;
 - require the subcontractor to undertake not to keep any document containing personal and confidential information, regardless of the medium, once the subcontract has

terminated, and to hand over any such documents to **WCI, Inc.** within sixty (60) days after the contract's end;

14.2.14 Transmit personal and confidential information securely when it is sent via email or Internet. The information must be encrypted or protected by a proven security mechanism. If personal and confidential information is transmitted by fax, the issuer of the document shall ensure that the receiver is authorized to receive it and shall take all measures necessary to protect the information. However, the parties may agree among themselves of any other means, such as delivery by hand, courier or registered mail, always indicating on the envelope the words "personal and confidential";

14.3 The **Minister** may, subsequent to the signing of this agreement, submit a confidentiality agreement to **WCI, Inc.**, its employees, agents, representatives, partners and subcontractors. Where appropriate, the terms, conditions and obligations of such an agreement shall be added to those of this agreement and cannot, unless otherwise specified by the **Minister**, waive them;

14.4 The expiration of the agreement does not relieve **WCI, Inc.** and its employees, agents, representatives or subcontractors of their obligations and commitment regarding the protection of personal and confidential information.

15. CONFIDENTIALITY

WCI, Inc. undertakes to take the necessary measures to ensure that each of its employees, agents, representatives, partners and subcontractors shall certify that any personal and confidential information obtained as a result of their assignment to execute the mandate entrusted to them will not be disclosed or brought to anyone's attention and that they will not use this personal and confidential information for their personal benefit.

16. CONFLICT OF INTEREST

WCI, Inc. undertakes to avoid any situation that would place the personal interest of its administrators and the interest of the **Minister** in conflict or give the appearance of such a conflict. If such a situation occurs, **WCI, Inc.** must immediately inform the **Minister** who may, at his discretion, either issue a directive to **WCI, Inc.** indicating how to remedy this conflict of interest or terminate the agreement.

17. PREVALENCE OF FRENCH

In the event of a discrepancy between the French version and the English version of this agreement, the French version shall prevail.

18. GOVERNING LAWS AND JURISDICTION

This agreement is governed by the laws applicable in Québec and, if disputed, Québec courts shall have sole jurisdiction.

The parties designate the judicial district of Québec as the jurisdiction with territorial competency to hear any claim arising from a dispute concerning the execution or interpretation of this agreement.

19. SURVIVAL OF OBLIGATIONS

Notwithstanding the full and complete execution of this agreement, its expiration or its termination for any reason, all the provisions contained in this agreement which, by their nature, apply beyond the end of this agreement, including paragraph 3.2.4 of section 3, section 5 and paragraph 14.4 of section 14, remain in force.

20. REPRESENTATIVES OF THE PARTIES

For the purposes of the application of this agreement, including any approvals that are required, the **Minister** designates **Mr. Jean-François Gibeault, Assistant Deputy Minister of Climate and Energy Transition** to represent him. If a replacement becomes necessary, the **Minister** shall immediately notify **WCI, Inc.**

Similarly, **WCI, Inc.** designates **Mr. Greg Tamblyn, Executive Director**, as its representative. If a replacement becomes necessary, **WCI, Inc.** shall immediately notify the **Minister**.

21. COMMUNICATION

Any notice, instruction, recommendation or document required under this agreement, to be valid and binding on the parties, must be given by a means to prove receipt at a specific time at the addresses indicated below:

The **Minister**:

Ministère de l'Environnement, de la Lutte contre les changements climatiques, de la Faune et des Parcs

Mr. Jean-François Gibeault
Assistant Deputy Minister
Bureau de la transition climatique et énergétique
675 René-Lévesque Boulevard East, 5th Floor, Box 30
Québec, Québec G1R 5V7

Email: jean-francois.gibeault@environnement.gouv.qc.ca

WCI, Inc.:

Western Climate Initiative, Inc.

Mr. Greg Tamblyn
Executive Director
1077 Ninth Street, Suite 1600
Sacramento, California 95814
USA

Email: gtamblyn@wci-inc.org

22. FINAL CLAUSE

Each payment is conditional on the availability of sums to that effect in the Electrification and Climate Change Fund, in accordance with the applicable provisions of the *Financial Administration Act* (CQLR, chapter A-6.001).

IN WITNESS HEREOF the parties have signed two (2) copies in the French language and two (2) copies in the English language:

The MINISTÈRE DE L'ENVIRONNEMENT, DE LA LUTTE CONTRE LES CHANGEMENTS CLIMATIQUES, DE LA FAUNE ET DES PARCS

By: _____

Ms Marie-Josée Lizotte,
Deputy Minister,
Ministère de l'Environnement, de la Lutte
contre les changements climatique, de la
Faune et des Parcs

Date

Place

WESTERN CLIMATE INITIATIVE, INC.

By: _____

Mr. Greg Tamblyn, Executive Director,
Western Climate Initiative, Inc.

Date

Place

Exhibit A

Termination and Withdrawal Procedures

Section 1. Notice of Termination and Withdrawal.

Subject to the terms of Section 6 of this Agreement, the Minister must provide WCI, Inc. and each of the other Participating Jurisdictions with ninety (90) days prior written notice of its intent to terminate this Agreement prior to the end of the term (“**Notice of Termination**”). The parties acknowledge and agree that WCI, Inc.’s receipt of the Notice of Termination shall trigger the withdrawal procedures set forth in Article X, Section 10.1 of the WCI, Inc. Bylaws which provide for the termination of Québec as a Participating Jurisdiction of WCI, Inc., a copy of which is attached hereto as Attachment A-1.

Section 2. Effect of Providing Notice of Termination.

WCI, Inc.’s receipt of the Withdrawal Notice shall have the following effects:

- a. Within fifteen (15) business days of WCI, Inc.’s receipt of the Notice of Termination, WCI, Inc. shall provide to the Minister a draft plan of withdrawal (“**Withdrawal Plan**”). A copy of the Withdrawal Plan shall also be provided to all other Participating Jurisdictions.
- b. The Withdrawal Plan shall include, at a minimum, the following items:
 1. List of specific actions and tasks required on the part of WCI, Inc. to withdraw Québec as a Participating Jurisdiction including, but not limited to: removing Québec from all IT and related platforms, closing all escrow accounts, collecting and returning all Québec confidential, personal and proprietary information that is in the actual or constructive possession of WCI, Inc. (collectively, “**Withdrawal Services**”);
 2. Describe the phasing out of Québec’s participation in WCI, Inc.’s programs and activities during the period prior to the Termination Date (as defined below);
 3. Provide a list of all actions required of the Minister to withdraw as a Participating Jurisdiction and a timeline for the execution of Withdrawal Services which shall include the estimated date upon which the Withdrawal Services shall be complete (“**Termination Date**”);
 4. WCI, Inc.’s cost to provide the Withdrawal Services (“**Withdrawal Cost**”) as described further in Section 3 below; and
 5. An accounting of the fees paid to WCI, Inc. under this Agreement by Québec and, after application of the Withdrawal Costs, whether there will be fees returned to Québec (“**Excess Fees**”) or there are additional amounts that will be owed by Québec to WCI, Inc. (“**Additional Fees**”).
- c. The Minister shall have ten (10) business days to provide WCI, Inc., with a copy to all other Participating Jurisdictions, with its written comments on the draft Withdrawal Plan. WCI, Inc. and Minister, in consultation with the other Participating Jurisdictions to the extent possible, shall work in good faith and in a diligent manner

to finalize the terms of a mutually agreeable Withdrawal Plan (“**Final Plan**”) as soon as reasonably possible.

Section 3. Withdrawal Costs.

Withdrawal Cost shall include all costs directly incurred by WCI, Inc. in providing the Withdrawal Services plus the Minister’s proportionate share of any WCI, Inc.’s fixed costs or non-terminable or non-refundable costs in the providing cap and trade program services. Excess Fees shall be paid by WCI, Inc. to the Minister within twenty (20) business days after the earlier to occur of WCI, Inc.’s completion of the Withdrawal Services or the Termination Date. Additional Fees must be paid by the Minister to WCI, Inc. within thirty (30) business days of the completion of the Final Plan.

Section 4. Cooperation of Parties in Withdrawal Process.

WCI, Inc. shall, as soon as reasonably possible, notify the Minister and the other Participating Jurisdictions of any circumstance or event of which it become aware that is related to or is resulting from Québec’s withdrawal from WCI, Inc. that could potentially have a material negative affect to WCI, Inc., the remaining Participating Jurisdictions or applicable markets (“Negative Consequences”). WCI, Inc. and the Minister, in consultation with the other Participating Jurisdictions, shall work in good faith and in a diligent manner to mitigate any such Negative Consequences which may include, but are not limited to, removing Québec from all IT and related platforms, closing all escrow accounts and de-linking Québec from any other Participating Jurisdiction.

Section 5. Use of Québec confidential and proprietary information Post-Termination.

In addition to and notwithstanding any other term or condition of the Agreement but subject to any laws applicable in Québec, WCI, Inc. may keep a copy of the Québec’s confidential and proprietary information for the use by WCI, Inc. and the remaining Participating Jurisdictions only if such use is necessary and only for as long as such use is necessary for the ongoing market monitoring and oversight of the remaining joint market. In keeping a copy of and using Québec’s confidential and proprietary information, WCI, Inc. shall ensure use of such information is consistent with the use of such confidential and proprietary information by other entities during the term of this Agreement. The Minister shall allow use of Québec’s confidential and proprietary information by WCI, Inc. and the remaining Participating Jurisdictions only if WCI, Inc. and the remaining Participating Jurisdictions continue to maintain the confidentiality of such information consistent with the applicable information sharing agreements and each entity’s responsibilities under their respective laws.