

AGREEMENT ON THE PROVISION OF FINANCIAL ASSISTANCE IN THE AMOUNT OF \$ 3,155,635 US TO FINANCE THE WESTERN CLIMATE INITIATIVE, INC. OVER ITS FISCAL YEARS 2020 AND 2021

BETWEEN

THE MINISTRE DE L'ENVIRONNEMENT ET DE LA LUTTE CONTRE LES CHANGEMENTS CLIMATIQUES, for and on behalf of the Government of Québec, represented by M. Marc Croteau, 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 980 Ninth Street, Suite 1600, 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 in 2006, the State of California adopted Assembly Bill 32 (AB 32), entitled the *California Global Warming Solutions Act*, directing it to reduce its greenhouse gas emissions to their 1990 level by 2020;

WHEREAS, by Order in council number 1187-2009 on November 18, 2009, the Government of Québec adopted a greenhouse gas emission reduction target of 20% below the 1990 level for 2020;

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;

WHEREAS WCI, Inc. seeks to provide administrative and technical services to the states of the United States and the provinces and territories of Canada who are 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, as a founding jurisdiction of **WCI, Inc.**, has undertaken, such as the Government of the State of California 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 and 148-2016 dated March 9, 2016, the Gouvernement of Québec paid amounts to **WCI, inc.** for its fiscal years 2012 to 2017;

WHEREAS, by Order in council 305-2020 dated March 25, 2020, the Gouvernement of Québec is authorized to pay, during its fiscal years 2020-2021 and 2021-2022, financial assistance of a maximum amount of \$ 3,155,635 US to the **WCI, inc.** to help fund its operations for fiscal years 2020 and 2021, subject to the availability of sums to this effect in the Green 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 three millions one hundred fifty-five thousand six hundred and thirty-five US dollars (**\$ 3,155,635 US**) in financial assistance to the **WCI, Inc.** non-profit corporation in order to contribute to the financing of its operations for its 2020 and 2021 fiscal years.

The mandate of **WCI, Inc.** includes three (3) 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;
 - providing customer service in French and English;
 - ensuring the system'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 Green 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 2020 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 four hundred nine thousand seven hundred thirty-three US dollars (**\$1,409,733 US**);
- 2° in the first quarter of 2021, the **Minister** agrees to pay the balance of Québec's contribution in the amount of one million seven hundred forty-five thousand nine hundred two US dollars (**\$1,745,902 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 three millions one hundred fifty-five thousand six hundred and thirty-five US dollars (**\$ 3,155,635 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 acces 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, 2022 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 et de la Lutte contre les changements climatiques 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 **Ms. France Delisle, Director General of the Direction générale de la réglementation carbone et des données d'émission** 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 et de la Lutte contre les changements climatiques

Ms. France Delisle

Director General

Direction générale de la réglementation carbone et des données d'émission

675 René-Lévesque Boulevard East, 5th Floor, Box 31

Québec, Québec G1R 5V7

Telephone: (418) 521-3868, ext. 4565

Fax: (418) 646-4920

WCI, Inc.:

Western Climate Initiative, Inc.

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

Telephone: (916) 449-9966

22. FINAL CLAUSE

Each payment is conditional on the availability of sums to that effect in the Green 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 ET DE LA LUTTE CONTRE LES CHANGEMENTS CLIMATIQUES**

By: [signature on file]

Mr. Marc Croteau, Deputy Minister,
Ministère de l'Environnement et de la Lutte
contre les changements climatique

March 30, 2020

Date

Québec, QC

Place

WESTERN CLIMATE INITIATIVE, INC.

By: [signature on file]

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

March 26, 2020

Date

Sacramento, CA

Place

Exhibit A

Termination and Withdrawal Procedures

The termination and withdrawal procedures set forth in this Exhibit A (“**Procedures**”) shall be effective and apply to this Agreement only upon the satisfaction of both of the following conditions (“**Contingencies**”):

1. California and Nova Scotia have also agreed that these same Procedures are adopted and apply to their respective Funding Agreement; and
2. WCI, Inc. has amended its Bylaws to adopt Article X, Section 1 in form and substance substantially the same as set forth in Attachment A-1.

Until both Contingencies are satisfied, the thirty (30) day termination procedure set forth in Section 6 of the Agreement to which this Exhibit A is attached, shall remain in full force and effect.

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.

ATTACHMENT A-1

WCI, Inc. Proposed Bylaw Amendment

BY-LAWS
OF
WESTERN CLIMATE INITIATIVE, INC.

(A Delaware Non-Profit Corporation)

REVISED: March 23, 2020

I certify that the attached is a full, true and correct copy of the By-Laws of Western Climate Initiative, Inc. adopted by all of the members of the Board of Directors as of the date hereof.

Secretary

Date

REVISION HISTORY

| Date | Revised By | Description |
|------------|--------------------|--|
| 11/3/2011 | Board of Directors | By-laws adopted |
| 12/11/2012 | Board of Directors | Amendments to the text to modify the naming of directors from the State of California, and to provide each Participating Jurisdiction with the opportunity to appoint two non-voting, “Class B” Directors to the Board (in addition to their two “Class A” (voting) Directors). Deleted Section 4.12 (Action without a Meeting). |
| 5/8/2013 | Board of Directors | Amendments to the text to clarify the purpose of WCI, Inc., and emphasize the intent to conduct the activities of the Corporation in a transparent and open manner. |
| 10/12/17 | Board of Directors | Amendments to the text to clarify: how quorum of the Board is determined, when a 2/3 supermajority vote of the Board is required, what measures require “no dissenting votes” be cast by the Board for passage of the measure and the composition of the Executive Committee. |
| 5/11/18 | Board of Directors | Amendment to the text to include Nova Scotia as a Participating Jurisdiction and define the methodology for how Nova Scotia will name their Directors. |
| 10/11/18 | Board of Directors | Amendment to the text to remove Ontario as a Participating Jurisdiction. |
| 3/23/2020 | Board of Directors | Amendment of numerous provisions including: moving list of jurisdictions to an Exhibit A, removing the Alternate position and adding a Designee position, contract approval threshold deleted and moved to Procurement Policy; clarifying Chair cannot simultaneously serve as Treasurer; adding a Withdrawal provision. |

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BY-LAWS
OF
WESTERN CLIMATE INITIATIVE, INC.

(the “Corporation”)

ARTICLE I.

PURPOSES

The exclusive purposes for which the Corporation is formed are: (1) to provide technical and scientific advisory services to States of the United States and Provinces and Territories of Canada in the development and collaborative implementation of their respective greenhouse gas emissions trading programs; (2) to perform any other charitable or scientific function related to the reduction of greenhouse gas emissions or the increase in carbon sequestration; and (3) to perform any other charitable or scientific function related to emissions trading programs or other programs with the purpose of improving environmental quality.

The activities of the Corporation in performing these purposes may include the following:

(a) developing, implementing, and maintaining a system for tracking compliance instruments for emissions trading programs, including allowances and offset certificates, that conforms to the requirements of State and Provincial programs;

(b) developing, implementing, and maintaining capability to execute auctions of allowances that conforms to the requirements of State and Provincial programs;

(c) developing, implementing, and maintaining capability to conduct market monitoring of allowance auctions and allowance and offset certificate trading that conforms to the requirements of State and Provincial programs;

(d) developing, implementing, and maintaining capability to provide technical reviews and administrative processing of offset project documentation that conforms to the requirements of State and Provincial programs;

(e) conducting technical analyses to evaluate existing programs or possible modifications to programs; and

(f) developing, implementing, and maintaining the capability to conduct the business operations necessary to perform the above activities (a) through (e).

The activities of the Corporation shall be conducted in a transparent and open manner, commensurate with the prudent stewardship of its funds. Policies to ensure transparent and open operations shall be adopted from time to time by the Board.

The Corporation is a non-stock, non-profit corporation. The purposes for which the Corporation is organized are exclusively religious, charitable, scientific, literary and/or educational within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as the same may be amended (the “Code”), or the corresponding provision of any future United States Internal Revenue law.

ARTICLE II.

MEMBERS

The Corporation shall have no members. To the extent members are required by law, the Class A directors holding office at any time shall be the Corporation’s members at that time and shall be deemed to have done such acts as are necessary to elect the directors and otherwise fulfill responsibilities as members.

ARTICLE III.

PARTICIPATING JURISDICTIONS

The governmental entities set forth in Exhibit A attached to these By-Laws shall be deemed “Participating Jurisdictions” until such time as the Participating Jurisdictions withdraws from Corporation as provided in Article X, Section 10.1 of these Bylaws, in which case Exhibit A shall be amended to reflect such withdrawal. The Board shall have the power to name additional Participating Jurisdictions by the affirmative vote of two-thirds of the Board which adoption shall then be reflected by an amendment to Exhibit A.

ARTICLE IV.

BOARD OF DIRECTORS

Section 4.1. Class A and Class B Directors. As used in these By-Laws, the term Class A director shall mean and refer to a director possessing all of the authority granted to directors of non-profit, non-stock corporations under applicable law. As used in these By-Laws, the term Class B director shall mean and refer to an individual designated as set forth in these By-Laws who is entitled to notice of and to attend and be heard at meetings of the Board of Directors (the “Board”), but who is not counted in determining if a quorum is present, is not entitled to vote on any matter and shall not act on behalf of the Corporation or the Board.

Section 4.2. Powers and Number. The Corporation shall be managed by the Board. The initial Board shall be as set forth in the Certificate of Incorporation and shall hold office until the Class A directors of each Participating Jurisdiction shall have qualified as provided in this Section 4.2. Subject to any change to the status of any Participating Jurisdiction as a result of a withdrawal of a Participating Jurisdiction under the terms set forth in Article X, Section 10.1 below, the Board shall consist of two Class A directors from each Participating Jurisdiction. Each Participating Jurisdiction shall appoint two individuals to serve as Class A

directors. Each Class A director shall provide written notice to the Chair of his or her acceptance of the position of Class A director of the Corporation.

Each Participating Jurisdiction shall have the right to name up to two individuals, each of whom is an employee, officer or elected officer of the jurisdiction as Class B directors to serve in accordance with these By-Laws. The appointing authority of the jurisdiction shall notify the Chair in writing of the individuals so named. Each Class B director shall provide written notice to the Chair of his or her acceptance of the position of Class B director of the Corporation.

The Board shall have the power, to be exercised through amendment of the By-Laws in the manner set forth in the By-Laws, to authorize additional directorships or to remove directorships previously authorized.

Section 4.3. Board. As used in these By-Laws, the term “Board” refers to the Class A directors of the Corporation then in office.

Section 4.4. Designees. Each Class A director may appoint a person to serve as the designee of the Class A director (“Designee”). In the absence of a Class A director, his or her Designee may attend all Board and Committee meetings provided, however, the Designee shall not be allowed to vote on behalf of the appointing Class A director nor shall the Designee be counted towards any quorum requirements. The Designee may also be excluded from closed session Board and Committee meetings at the discretion of the Chair of the Board or Committee.

Section 4.5. Term of Office. Each director shall hold office as provided herein or until his or her death, resignation or removal. The term of office of each director shall begin when the Chair of the Corporation receives written notice of such director’s acceptance of the office and shall conclude when such director’s successor has qualified as provided herein.

Section 4.6. Resignations. Any director may resign from office at any time by delivering a letter of resignation to the Chair of the Corporation, and the acceptance of such resignation, unless required by the terms thereof, shall not be necessary to make such resignation effective.

Section 4.7. Replacement of Named Directors. A director named by a Participating Jurisdiction may be removed by that jurisdiction at any time and for any reason, and another director named in his or her place, upon written notice to the Chair of the Corporation and otherwise in accordance with Section 4.2 of this Article.

Section 4.8. Vacancies. In the event that a directorship becomes vacant for any reason, the Participating Jurisdiction from which the director was named may name another person as its director, as provided in Section 4.2 of this Article, by written notice to the Chair of the Corporation.

Section 4.9. Meetings. Meetings of the Board may be held at any place within or without the State of Delaware as the Board may from time to time fix, or as shall be specified in the notice or waivers of notice thereof. The annual meeting of the Board shall be held at such

time as determined by the Board. Special meetings of the Board shall be held whenever called by a member of the Executive Committee or by any Class A director upon written demand of not less than one third of the Board. In each case, the person or persons calling the special meeting shall fix the time and place of the meeting.

Section 4.10. Quorum and Voting. Unless a greater proportion is required by law, a majority of the Board that includes at least one Class A director from each Participating Jurisdiction shall constitute a quorum for the transaction of business. However, if at any meeting a quorum cannot be achieved because of the absence of Class A directors from a Participating Jurisdiction, then such meeting may be adjourned to a later date (the “adjourned meeting”). The time, date and location of the adjourned meeting shall be as set forth on notice to all directors, such notice to conform to the requirements for a special meeting set forth in Section 4.14. If no Class A director from the Participating Jurisdiction unrepresented at the initial meeting attends the adjourned meeting, then no Class A director from that Participating Jurisdiction shall be necessary to constitute a quorum at the adjourned meeting. Except as otherwise provided by law or by these By-Laws, the vote of a majority of the Board, if a quorum is present at such time, shall be an act of the Board.

Section 4.11. Budget. The vote of at least two-thirds of the Board, if a quorum is present, with no dissenting votes shall be required to approve or substantially modify the Corporation’s budget.

Section 4.12. Location of Principal Office. The vote of at least two-thirds of the Class A directors present at the time of the vote, if a quorum is present, shall be required to establish or to change the location of the Corporation’s principal office.

Section 4.13. Meeting by Use of Telecommunications. Any Class A or Class B director or one or more members of any committee of the Board may participate in a meeting of the Board or committee by means of a conference telephone or similar telecommunications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

Section 4.14. Notice of Meetings; Waiver. To the extent the Board has not predetermined meeting dates, notice of the time and place of each regular or special meeting of the Board shall be sent to each director, by mail, postage prepaid, or by confirmed telefax or e-mail, addressed to him or her at the address provided to the Secretary of the Corporation, or in default thereof, at his or her residence or usual place of business, not fewer than ten days, or in the case of a special meeting, not fewer than three days, in advance of the day on which the meeting is to be held. The notice of any special meeting shall state the purpose or purposes for which the meeting is called. Notice of a meeting need not be given to any director who submits a signed waiver of notice before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to him or her.

Section 4.15. Compensation of Directors. Directors shall not receive any compensation for their services as directors. As authorized by the Board, a director may be reimbursed for his or her actual expenses incurred in furtherance of the Corporation’s purposes.

Section 4.16. Electronic Transmissions. For all purposes in this Article IV, a writing includes an electronic transmission.

ARTICLE V.

OFFICERS, EMPLOYEES AND AGENTS

Section 5.1. Officers: Number and Qualification. The officers of the Corporation shall be a Chair, a Vice Chair, a Secretary, and a Treasurer and such other officers as the Board shall determine. Said officers shall be chosen from among the Class A directors. Any person may hold two offices except that (1) one person may not be both Chair and Secretary, (2) one person may not be both Chair and Vice Chair, and (3) one person may not be both Chair and Treasurer.

Section 5.2. Compensation of Officers. Officers shall not receive any compensation for their services as officers. As authorized by the Board, an officer may be reimbursed for his or her actual expenses incurred in furtherance of the Corporation's purposes.

Section 5.3. Election, Vacancies and Removal. The officers shall be elected by the vote of a majority of the Board at its annual meeting, and any vacancy may be filled at any regular or special meeting and each officer shall serve until the next annual meeting, and until their successors are duly elected and qualified. No person shall hold one office for more than three consecutive terms, but such disqualification, and any subsequent such disqualification, shall expire after the passage of a year, and such individual may once again hold such office for three consecutive terms. Any officer elected by the Board may be removed, with or without cause, at any time, by a vote of a majority of the Board.

Section 5.4. Chair: Powers and Duties. The Chair shall preside at meetings of the Board, shall have general supervision of the affairs of the Corporation and shall keep the Board fully informed about the activities of the Corporation.

Section 5.5. Vice Chair. The Vice Chair shall, in the absence or disability of the Chair, perform the duties and exercise the powers of the Chair, and shall have such titles and powers and perform such duties as may from time to time be prescribed by the Board of Directors, the Chair, or by the Executive Committee, which duties may include powers elsewhere assigned or delegated to other officers. The Board may by resolution create such additional Vice Chairs for such purposes as it determines to be appropriate.

Section 5.6. Secretary: Powers and Duties. The Secretary shall act as secretary of all meetings of the Board. He or she shall keep or cause to be kept minutes of Board meetings in appropriate record books and shall be responsible for giving and serving all notices of the Corporation. He or she shall be custodian of the corporate records and of the corporate seal and affix the latter when required. All corporate records and documents shall be located in the office of the Executive Director. The Secretary shall perform all the duties customarily incident to the office of secretary, subject to the control of the Board, and shall perform such other duties as shall from time to time be assigned by the Board.

Section 5.7. Treasurer: Powers and Duties. The Treasurer shall keep or cause to be kept full and accurate accounts of receipts and disbursements of the Corporation, and shall deposit or cause to be deposited all moneys and other valuable effects of the Corporation in the name and to the credit of the Corporation in such depositories as the Board may designate. At the annual meeting of the Board and whenever else required by the Board, he or she shall render a statement of the Corporation's accounts. He or she shall at all reasonable times exhibit the Corporation's books and accounts to any officer or director of the Corporation and shall perform all duties incident to the office of treasurer subject to the control of the Board.

Section 5.8. Officers: Miscellaneous Powers and Duties. Subject always to the specific directions of the Board, the Chair, Vice Chair, Secretary or Treasurer shall have power to execute all needed receipts for monies due and payable to the Corporation from any source, including bequests, and to execute and deliver, and to affix the seal of the Corporation to, any and all other contracts, agreements or instruments to which the Corporation shall be a party, including all releases and waivers of issuance and service of citation or other process in any Court. The Board may from time to time impose or confer upon any officer such additional duties and responsibilities as it sees fit.

Section 5.9. Executive Director. The Board shall appoint an Executive Director, by vote of at least two-thirds of the Board if a quorum is present, to serve at the pleasure of the Board as the Chief Executive Officer of the Corporation, to manage the day-to-day operations of the Corporation (including the hiring and firing of employees) and to perform such other duties as the Board may from time to time direct. The Executive Director shall receive such reasonable compensation as the Board may from time to time determine.

Section 5.10. Employees and Other Agents. The Board may appoint from time to time such employees and other agents as it shall deem necessary, each of whom shall hold office at the pleasure of the Board, and shall have such authority, including that of any officer, and perform such duties and shall receive such reasonable compensation as the Board may from time to time determine. The Board may by resolution delegate these appointment powers to the Chair or other officers of the Corporation or to the Executive Director.

ARTICLE VI.

COMMITTEES OF THE BOARD

Section 6.1. Committees in General. There shall be the following standing committees of the Board: an Executive Committee, a Finance Committee, and an Audit Committee. In addition, the Board may create or eliminate such other standing committees as it determines to be appropriate, each of which shall include two or more Class A directors and may include persons who are not Class A directors, and each of which shall have authority as determined by the Board. All standing committee members shall be appointed by the Board at the annual meeting to serve until the next annual meeting and until their successors are duly elected and qualified. The Board may appoint Designees to serve on any standing committee, other than the Executive Committee, or any special committee provided, however, that a Designee may not serve as Chair of a standing committee and a Class A Director and his or her

Designee may not serve on the same committee. The Board by resolution may create such special committees, which may include or be comprised of persons who are not Class A directors as the Board determines, which shall have and may exercise such powers as shall be conferred or authorized by the resolution creating them. The Board shall have power to change the membership of any special committee, to fill vacancies and to discharge or eliminate any such committee.

Section 6.2. Executive Committee. The Executive Committee shall consist of at least four directors: the Chair, who shall also serve as chairperson of the Executive Committee, all Vice Chairs, the Treasurer, and the Secretary. The Board may appoint additional Class A directors to the Executive Committee. A majority of the Officers shall constitute a quorum for the transaction of business. The vote of a majority of the members of the Executive Committee present at a meeting, if a quorum is present at such time, shall be an act of the Executive Committee. The Executive Committee shall have the authority to act for the Board between meetings of the Board except as to the following matters:

- (a) the filling of vacancies on the Board or on any standing committee or the creation or elimination of any standing committee;
- (b) the amendment or repeal of the By-Laws or the adoption of new By-Laws;
- (c) the amendment or repeal of any resolution of the Board; and
- (d) the fixing of compensation, if any, of the directors for serving on the Board or any committee.

Section 6.3. Finance Committee. The Finance Committee shall consist of at least one Class A director, one of whom shall be the Treasurer, who shall serve as chairperson of such Committee and such Designees as the Board shall appoint. The Finance Committee shall advise the Treasurer and the Board as to the investments, budget, and general fiscal policy of the Corporation.

Section 6.4. Audit Committee. The Audit Committee shall consist of at least one Class A director, whom shall serve as the chairperson of such Committee and such Designees as the Board shall appoint. This Committee shall oversee the quality and integrity of the Corporation's accounting, auditing and reporting practices. The specific powers and responsibilities of the Audit Committee shall be specified in an Audit Committee Charter, which shall be adopted from time to time by the Board.

Section 6.5. Committee Meetings. Meetings of committees may be called at any time by the respective chairperson of each committee, or by the Chair. Reports of committee meetings shall be presented to the Board at its next regular meeting and each committee shall furnish copies thereof to the Secretary to be maintained with the records of the Corporation. Unless the Board shall otherwise provide, the Standing Committees shall have the power to establish their own rules of procedure and to determine the time and place of their meetings.

ARTICLE VII.

CHECKS, NOTES AND CONTRACTS

The Board is authorized to select such depositories as it shall deem proper for the funds of the Corporation and shall determine who shall be authorized on behalf of the Corporation to sign bills, notes, receipts, acceptances, endorsements, checks, releases, contracts and documents.

ARTICLE VIII.

BOOKS

Correct books of account of the activities and transactions of the Corporation, including a minute book, which shall contain a copy of the Certificate of Incorporation, a copy of these By-Laws, minutes of all meetings of the Board and reports of the meetings of any committee thereof, shall be kept at the office of the Corporation.

ARTICLE IX.

FISCAL YEAR

The fiscal year of the Corporation shall be the calendar year.

ARTICLE X.

WITHDRAWAL, INDEMNIFICATION AND INSURANCE

Section 10.1. Withdrawal. The date of receipt by Corporation of a Notice of Termination (as that term is defined in the Funding Agreement for each Participating Jurisdiction) from a Participating Jurisdiction (“Withdrawing Jurisdiction”) shall be deemed to be the effective date of the Withdrawing Jurisdiction’s withdrawal as a “Participating Jurisdiction” as that term is used in Article III of these Bylaws (“Effective Date of Withdrawal”). All Withdrawing Jurisdiction’s Class A and Class B directors shall be deemed to have resigned from their positions as a Class A or Class B director, as applicable, and from any officer positions they may hold all as of the Effective Date of Withdrawal. All Withdrawing Jurisdiction’s Class A and Class B directors also shall not be considered members of the Board or counted towards quorum as of the Effective Date of Withdrawal.

Section 10.2. Indemnification. The Corporation shall, to the fullest extent now or hereafter permitted by law, indemnify any person made, or threatened to be made, a party to any action or proceeding by reason of the fact that he or she was a director, officer, employee or agent of the Corporation, and any other person whom it shall have the power to indemnify, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees. However, the Corporation shall not indemnify a person if doing so would constitute an act giving rise to any tax or sanction under the Internal Revenue Code of 1986, as the same may be amended, or the regulations thereunder.

Section 10.3. Insurance. The Corporation shall have the power to purchase and maintain insurance to indemnify the Corporation for any obligation which it incurs as a result of its indemnification of directors, officers, employees or agents pursuant to Section 1 above, or to indemnify such persons in instances in which they may be indemnified pursuant to Section 1 above.

ARTICLE XI.

AMENDMENTS

Except as prohibited by the Certificate of Incorporation, these By-Laws may be amended by the affirmative vote of two-thirds of the Board, or by the affirmative vote of the Board if it consists of fewer than three (3) Class A directors, at any meeting of the Board at which a quorum is present, provided that notice of the proposed amendment has been included in the notice of meeting.

ARTICLE XII.

LIMITATION

The Corporation shall have no policy making, regulatory, or enforcement authority with respect to any existing or future program of any Participating Jurisdiction, and all such sovereign authority is reserved to each Participating Jurisdiction.

ARTICLE XIII.

REFERENCE TO CERTIFICATE OF INCORPORATION

Reference in these By-Laws to the Certificate of Incorporation shall include all amendments thereto or changes thereof unless specifically excepted.

EXHIBIT A

LIST OF WESTERN CLIMATE INITIATIVE, INC.'S PARTICIPATING JURISDICTIONS

Last Updated March 23, 2020

California

Québec

Nova Scotia