



AGREEMENT ON

THE HARMONIZATION AND INTEGRATION

OF CAP-AND-TRADE PROGRAMS

FOR REDUCING GREENHOUSE GAS EMISSIONS

WHEREAS, the Parties publicly adopted their own greenhouse gas emissions reduction targets, their own regulation on greenhouse gas emissions reporting programs and their own regulation(s) on their cap-and-trade programs;

WHEREAS, the Parties are participants of Western Climate Initiative, Inc. (WCI, Inc.), a non-profit corporation incorporated in October 2011, providing administrative and technical services to its participants to support and facilitate the implementation of their cap-and-trade programs for reducing greenhouse gas emissions;

WHEREAS, the Parties share a common interest in working jointly and collaboratively toward the harmonization and integration of their greenhouse gas emissions reporting programs and of their cap-and-trade programs for reducing greenhouse gas emissions;

WHEREAS, the Parties recognize that the harmonization and integration of their greenhouse gas emissions reporting programs and their cap-and-trade programs are to be attained by means of regulations adopted by each Party;

WHEREAS, the Parties have developed constructive working relationships among their respective staff and officials, and have demonstrated the ability to harmonize their programs and integrate their program operations, including by enabling staff to work jointly through workgroups to develop proposed harmonized approaches for consideration by each Party on topics including, but not limited to, greenhouse gas emissions reporting, issuance of compliance instruments, program scopes, compliance requirements, offset protocols, program registry, auction design and execution, auction platform, market regulations, invalidation of offset credits, enforcement, public disclosure of information, and information sharing among the Parties;

WHEREAS, the Parties further recognize that this Agreement is intended to facilitate continued consultation, using and building on existing working relationships, during the implementation and the operation of the Parties' respective programs and supporting the development of any proposed program changes, including new offset protocols, and new program elements, with the objective of maintaining and developing harmonized and integrated approaches that may be considered by each Party;

WHEREAS, the Parties further recognize the importance of effective and timely public consultation regarding their respective program operations, program changes, new offset protocols, and new program elements;

WHEREAS, the Parties further recognize that the present Agreement does not, will not and cannot be interpreted to restrict, limit or otherwise prevail over relevant national obligations of each Party, if applicable, and each Party's sovereign right and authority to adopt, maintain, modify, repeal or revoke any of their respective program regulations or enabling legislation;

WHEREAS, the Gouvernement du Québec and the California Air Resources Board agreed to link their cap-and-trade programs by signing in September 2013 the "*Agreement between the Gouvernement du Québec and the California Air Resources Board concerning the harmonization of cap-and-trade programs for reducing greenhouse gas emissions*";

WHEREAS, the Gouvernement du Québec and the California Air Resources Board have agreed to terminate their 2013 “*Agreement between the Gouvernement du Québec and the California Air Resources Board concerning the harmonization of cap-and-trade programs for reducing greenhouse gas emissions*” in order to pursue the objectives of this Agreement, including entering into a new Agreement that also includes the Government of Ontario and that provides for other jurisdictions to enter into this Agreement;

WHEREAS, the Parties are committed to harmonize and integrate their greenhouse gas emissions reporting programs and their cap-and-trade programs for reducing greenhouse gas emissions as well as to facilitate the inclusion of new Parties to this Agreement;

THEREFORE, to collaborate in the achievement of the Parties’ respective goals in the fight against climate change through the harmonization and integration of their greenhouse gas emissions reporting programs and cap-and-trade programs for reducing greenhouse gas emissions,

THE PARTIES AGREE TO THE FOLLOWING:

CHAPTER I

GENERAL PROVISIONS

ARTICLE 1

OBJECTIVE

The objective of this Agreement is for the Parties to work jointly and collaboratively toward the harmonization and integration of the Parties’ greenhouse gas emissions reporting programs and cap-and-trade programs for reducing greenhouse gas emissions.

The intended outcome of the harmonization and integration is to enable each Party under its own statutory and regulatory authority to:

- a) achieve the harmonization of its regulation for reporting of greenhouse gas emissions and regulations for the cap-and-trade program such that the regulations will be compatible between the Parties;
- b) provide for the equivalence and interchangeability of compliance instruments issued by the Parties for the purpose of compliance with their respective cap-and-trade programs;
- c) develop and implement an accounting mechanism that provides for a transparent and data-driven calculation that attributes to each Party its portion of the total greenhouse gas emission reduction achieved jointly by the Parties’ linked cap-and-trade programs, the results of which will be used to avoid double claiming of emission reductions by the Parties;

- d) permit the transfer and exchange of compliance instruments between participants registered with the Parties' respective cap-and-trade programs using a common secure registry;
- e) develop compatible market requirements that are applied and enforced for all participants registered in the Parties' respective cap-and-trade programs;
- f) allow for planning and holding joint auctions of compliance instruments;
- g) enable the sharing of information to support effective administration and enforcement of each party's statutes and regulations.

The Parties shall report to the public annually on the status of achieving this objective.

ARTICLE 2

DEFINITIONS

For the purposes of this Agreement:

“Auction” means the process in which one Party sells a determined number of compliance instruments by offering them up for bid, taking bids, and then distributing the compliance instruments to winning bidders;

“Auction platform” means the auction system used to conduct auctions;

“Compliance instruments” means an instrument, issued by one of the Parties, that can be used by a covered entity or a voluntary participant to fulfill a compliance obligation and having a value corresponding to the emission of one metric ton of CO₂ equivalent greenhouse gas;

“Covered entity” means an entity with an obligation to surrender compliance instruments for its greenhouse gas emissions under a Party's statute and regulation(s) for the applicable cap-and-trade program for reducing greenhouse gas emissions;

“Greenhouse gas” means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulphur hexafluoride (SF₆) or nitrogen trifluoride (NF₃), as well as other greenhouse gases publicly identified as such by the Parties' statutes and regulations;

“Offset protocol” means a documented set of procedures and requirements to quantify ongoing greenhouse gas emission reductions, avoidances, removals or removal enhancements for an offset project as adopted by each Party;

“Voluntary participant” means a person or entity whose voluntary registration creates the obligation to surrender compliance instruments for its greenhouse gas emissions under a Party's statute and regulation(s) for the applicable cap-and-trade program for reducing greenhouse gas emissions;

“Market participant” means a person or an entity who does not report greenhouse gas emissions and is registered in the program registry and participates in one of the respective cap and trade programs for reducing greenhouse gas emissions;

“Program” means a Party’s cap-and-trade program for reducing greenhouse gas emissions, including offsets, and a Party’s greenhouse gas emissions reporting program;

“Program registry” means the data system in which covered entities and voluntary and market participants are registered, and in which compliance instruments are recorded and tracked;

“Registered participant” means a covered entity or a voluntary or market participant who is registered in the Parties' program registry.

CHAPTER II

HARMONIZATION AND INTEGRATION PROCESS

ARTICLE 3

CONSULTATION PROCESS

The Parties shall consult each other regularly and constructively to achieve the objective of this harmonization and integration Agreement. Consultation shall build on existing working relationships and shall enable Parties’ staff to work constructively through workgroups under the direction of the Parties’ officials.

The procedural requirements of each Party shall be respected, including appropriate and effective openness and transparency of each Party’s public consultations.

The topics of the collaboration and the joint work shall include, but are not limited to, those of the articles in this chapter.

ARTICLE 4

REGULATORY HARMONIZATION

The Parties shall continue to examine their respective regulations for the reporting of greenhouse gas emissions and for the cap-and-trade program in order to promote continued harmonization and integration of the Parties’ programs.

In the case where a difference between certain elements of the Parties’ programs is identified, the Parties shall determine if such elements need to be harmonized for the proper functioning and integration of the programs. If so determined, the Parties shall consult each other regarding a harmonized approach.

A Party may consider making changes to its respective programs, including changes or additions to its emissions reporting regulation, cap-and-trade program regulations, and program related operating procedures. To support the objective of harmonization and integration of the programs, any proposed changes or additions to those programs shall be discussed between the Parties. The Parties acknowledge that sufficient time is required to enable effective public review and comment prior to adoption. The Parties shall consult regarding changes that may affect the harmonization and integration process or have other impacts on any Parties. Each Party's public process for making program changes must be respected.

In the event that program conditions arise that indicate a need for rapid or emergency program changes or other actions by one or all Parties, the Parties shall work to harmonize such changes to maintain harmonization and integration and to resolve the conditions.

ARTICLE 5

OFFSET PROTOCOLS

In order to achieve harmonization and integration of the Parties' cap-and-trade programs, the offset protocols in each of the Parties' programs require that all offset emission reductions, avoidances, removals or removal enhancements achieve the essential qualities of being real, additional, quantifiable, permanent, verifiable, and enforceable.

A Party may consider making changes to the offset components of its program, including by adding additional offset protocols, or changing procedures for issuing offset credits. To support the objective of maintaining the harmonization and integration of the programs, any proposed changes shall be discussed between the Parties. The Parties acknowledge that sufficient time is required to enable effective public review and comment prior to adoption of any changes. The Parties shall consult regarding changes that may affect the harmonization and integration process or that may have other impacts on any Party. Each Party's public process for making program changes must be respected.

ARTICLE 6

MUTUAL RECOGNITION OF COMPLIANCE INSTRUMENTS

In order to achieve harmonization and integration of the Parties' cap-and-trade programs, mutual recognition of the Parties' compliance instruments shall occur as provided for under their respective cap-and-trade program regulations.

If a Party determines that a compliance instrument that it has issued should not have been issued or must be voided, it shall notify the other Parties. Each Party recognizes and respects the authority of the other Parties to take actions to recover or void compliance instruments that have been surrendered or that are held by registered participants.

ARTICLE 7

TRADE OF COMPLIANCE INSTRUMENTS

In order to achieve harmonization and integration of the Parties' cap-and-trade programs, trading of compliance instruments among registered participants in the Parties' respective programs shall occur as provided for under their respective cap-and-trade program regulations.

The Parties shall keep each other informed of any investigation, pertaining to but not limited to acts or omissions on the part of any of its registered participants or other persons regulated under the programs and any violation, penalty or fine, or decision rendered following such investigations.

ARTICLE 8

ACCOUNTING MECHANISM AND TREATMENT OF EMISSION REDUCTIONS

In order to ensure clarity and transparency in how greenhouse gas reductions from cap-and-trade programs are counted toward each Party's emission reduction target, the Parties agree to develop and implement an accounting mechanism that provides a transparent and data-driven calculation that attributes to each Party its portion of the total greenhouse gas emission reduction achieved jointly by the Parties' linked cap-and-trade programs.

The agreed upon accounting mechanism should achieve a high level of transparency and careful and secure management of confidential and market sensitive information in the Parties' cap-and-trade programs. The Parties will build on international principles and criteria, namely those pertaining to environmental integrity and robust accounting, with an emphasis on transparency and on avoiding double counting.

The Parties recognize that to avoid double claiming of emission reductions, only the Party to which an emission reduction is attributed by the accounting mechanism can use that reduction when assessing its progress toward meeting its emission reduction target, and other Parties will appropriately recognize a corresponding opposite emission impact when assessing their progress toward meeting their respective emission reduction targets.

The Parties acknowledge that when developing and implementing the accounting mechanism, each Party's applicable statutory and regulatory requirements will be respected.

The Parties agree to periodic review of the accounting mechanism in response to the development of laws applicable to each Party or relevant national and international principles and criteria.

ARTICLE 9

JOINT AUCTIONS

In order to achieve harmonization and integration of the Parties' cap-and-trade programs, the auctioning of compliance instruments by the Parties' respective programs shall occur jointly and in accordance with harmonized procedures developed by the Parties, as provided for under their respective cap-and-trade programs.

ARTICLE 10

COMMON PROGRAM REGISTRY AND AUCTION PLATFORMS

The Parties shall work together to develop and use common electronic platforms in order to ensure program compatibility, integrity, and integration, including but not limited to a program registry platform and an auction platform.

The common program registry and auction platforms shall be available in English and French and allow for recording and performing transactions in the currencies of each Party. The program registry and auction platforms shall conform to the requirements of the Parties' statutes, regulations and operating procedures.

CHAPTER III

OPERATION OF THE AGREEMENT

ARTICLE 11

SUPERVISION AND ENFORCEMENT

The Parties shall work cooperatively to maintain market integrity, including preventing fraud, abuse and market manipulation and to ensure the reliability of the joint auction and their respective programs. The Parties shall work cooperatively in applying their respective program requirements governing the supervision of all transactions carried out among registered participants of each of the Parties and of any auction or reserve sale.

The Parties shall facilitate, in accordance with the privacy, and other statutes and regulations applicable in each of their jurisdictions and the provisions of article 15 hereunder, the sharing of information to support the effective administration and enforcement of each party's statutes and regulations.

ARTICLE 12

COORDINATED ADMINISTRATIVE AND TECHNICAL SUPPORT

The Parties shall continue coordinating administrative and technical support through the WCI, Inc., an entity which was created to perform such services, including for the Parties.

If one of the Parties wishes to consider approaches other than WCI, Inc. for coordinating any of the administrative and technical program support, it shall consult the other Parties with the objective of jointly developing a harmonized approach.

If one of the Parties wishes to use the services of a party other than WCI, Inc. for technical or administrative support, or services of another nature required for the development or the operation of common program registry and auction platforms, it shall consult the other Parties with the objective of jointly developing a harmonized approach.

ARTICLE 13

CONSULTATION COMMITTEE

To facilitate the harmonization and integration process of the programs and the operation of the Agreement, the Parties shall create a Consultation Committee composed of one representative from each of the Parties. This Consultation Committee shall meet as needed to ensure timely and effective consultation in support of the objectives of this Agreement.

The representatives of each Party on the consultation committee are presented in Annex 1.

The Consultation Committee shall:

- a) monitor the implementation of all measures that are required for the effective harmonization and integration of the Parties' programs;
- b) recommend measures to improve the harmonization and integration of the Parties' programs, when needed; and
- c) address any other issues at the request of the Parties.

The Consultation Committee shall receive and review updates from the Parties on each area of activity as needed under this Agreement in a timely manner. If the Consultation Committee identifies or becomes aware of differences between the Parties regarding how to maintain the harmonization and integration of their programs, the Consultation Committee shall undertake to resolve the differences in accordance with Article 20.

CHAPTER IV

MISCELLANEOUS PROVISIONS

ARTICLE 14

JURISDICTION

The Parties acknowledge that this Agreement does not modify any existing statutes and regulations nor does it require or commit the Parties or their respective regulatory or statutory bodies to create new statutes or regulations in relation to this Agreement, and agree that the provisions of the Agreement shall not be interpreted by the Parties as amending any agreement or provision of an agreement entered into or to be entered into by any Party.

ARTICLE 15

CONFIDENTIALITY OF INFORMATION

To support and enhance the administration, including the analysis, operation and supervision, and the enforcement of the Parties' respective program requirements, the Parties shall jointly arrange to share information collected or developed under their respective programs. Nothing in this Agreement requires a Party to breach privacy or confidentiality obligations or requirements prohibiting the collection, use or disclosure of information to which it is bound under its own laws, nor compromise the security with which information is held, nor disclose confidential information such as commercially sensitive or personal information.

When information is shared between the Parties, each Party shall undertake to protect the information they disclose and collect, in accordance with the privacy and other statutes and regulations applicable in each of their jurisdictions, and take all necessary measures to such end, particularly with respect to the mode of communication, use, control, management and destruction. Shared information is to be used solely for the purposes of meeting the objectives of this Agreement.

If confidential information must be communicated by a Party to a non-Party to this Agreement under a law or following a court order, it shall notify the other Parties as soon as possible.

ARTICLE 16

PUBLIC ANNOUNCEMENT

The Parties shall keep each other informed in advance of any public announcement related to their respective programs.

Any announcement concerning the harmonization or integration of the Parties' programs shall be prepared and, if possible, made public jointly.

CHAPTER V

FINAL PROVISIONS

ARTICLE 17

WITHDRAWAL PROCEDURE

A Party may withdraw from this Agreement by giving written notice of intent to withdraw to the other Parties. A Party that intends to withdraw from this Agreement shall endeavour to give 12 months notice of intent to withdraw to the other Parties. A Party that intends to withdraw from this Agreement shall endeavor to match the effective date of withdrawal with the end of a compliance period.

Withdrawal from this Agreement does not end a Party's obligations under article 15 regarding confidentiality of information which continue to remain in effect.

If a Party withdraws, the Agreement shall remain in force for the remaining Parties.

ARTICLE 18

AMENDMENTS

Any amendment to this Agreement shall be in writing and requires the consent of all Parties to the Agreement at the time of the amendment.

An amendment that all Parties have agreed to and that has been authorized in accordance with the requirements of each Party shall constitute an integral part of this Agreement beginning on the date of its coming into force.

ARTICLE 19

ACCESSION

Recognizing that the Parties welcome effective, timely, and meaningful action to reduce greenhouse gas emissions by other jurisdictions, a candidate Party may be added as a Party to the Agreement if the candidate Party has adopted a program that is harmonized and can be integrated with each of the Parties' programs, if all of the Parties to the Agreement agree to add the candidate Party by signing an Accession Amending Agreement and then the candidate Party agrees to become a party to the Agreement by signing an Instrument of Accession.

To do so, the legal procedures required by each Party must be respected.

The standard form of the Accession Amending Agreement and the Instrument of Accession that can be found in Annex 2 and Annex 3, respectively, shall be

used. Once the Parties have signed an Accession Amending Agreement, the candidate Party shall sign an Instrument of Accession.

ARTICLE 20

RESOLUTION OF DIFFERENCES

The Parties shall consult each other constructively to resolve differences that may arise regarding how to achieve the objective of harmonizing and integrating their programs.

The Parties shall resolve differences by using and building on established working relationships, including enabling staff to work jointly through workgroups to develop proposed harmonized and integrated approaches for consideration by each Party. If approaches for resolving differences that are acceptable to the Parties cannot be developed in a timely manner through staff workgroups, the Parties shall constructively engage through the Consultation Committee, and if needed with additional officials of the Parties, or their designees. The Parties will endeavor to resolve differences in a timely manner, so that the harmonization and integration of the programs can be maintained.

ARTICLE 21

COMMUNICATIONS

The Parties agree to communicate on matters regarding this Agreement in writing and hand delivered or transmitted by telegram, fax, e-mail, messenger, courier or registered mail to the contact of the Party concerned (see Annex 1 for contacts).

Any change of address of one of the Parties or of the representatives designated in Annex 1 shall be notified to the other Parties.

Each Party shall designate a contact to facilitate communications between the Parties on any matter covered by this Agreement. On the request of any Party, the contact shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communication between the office or official and the requesting Party.

ARTICLE 22

COMING INTO FORCE AND DURATION OF THE AGREEMENT

Each of the Parties shall notify all the other Parties as soon as possible after the Party has completed any procedures required for the Agreement's entry into force.

The Agreement shall enter into full force and effect on the first day of the month following the date of receipt of notification from the last of the Parties informing the other Parties that any legally required measures have been completed.

The Agreement may only be terminated by the written consent of all of the Parties. Termination of the Agreement shall be effective 12 months after the last of the Parties has provided its consent to the other Parties.

Termination of this Agreement does not end a Party's obligations under Article 15 regarding the confidentiality of information, which continue to remain in effect.

ARTICLE 23

ANNEXES

The Annexes to this Agreement constitute an integral part of this Agreement.

The original English and French texts of this Agreement have the same legal force.

FOR THE *GOUVERNEMENT DU QUÉBEC*

At _____, on _____

Philippe Couillard
Premier ministre du Québec

FOR THE GOVERNMENT OF CALIFORNIA

At _____, on _____

Edmund G. Brown Jr.
Governor of California

FOR THE GOVERNMENT OF ONTARIO

At _____, on _____

Kathleen Wynne
Premier of Ontario

FOR THE GOUVERNEMENT DU QUÉBEC

At _____, on _____

David Heurtel

*Ministre de l'Environnement, du Développement durable
et de la Lutte contre les changements climatiques*

At _____, on _____

Jean-Marc Fournier

*Ministre responsable des Relations canadiennes
et de la Francophonie canadienne*

At _____, on _____

Christine St-Pierre

Ministre des Relations internationales et de la Francophonie

FOR THE CALIFORNIA AIR RESOURCES BOARD

At _____, on _____

Mary D. Nichols
Chair of the California Air Resources Board

FOR THE GOVERNMENT OF ONTARIO

At _____, on _____

Chris Ballard

Minister of the Environment and Climate change

ANNEX 1 – PARTIES’ REPRESENTATIVE ON THE CONSULTATION COMMITTEE AND CONTACT.

| Party | Representative on the consultation committee | Contact |
|-------------------------------|---|--|
| <i>Gouvernement du Québec</i> | Assistant Deputy Minister for the Fight against climate change at the <i>Ministère du Développement durable, de l’Environnement et de la lutte contre les changements climatiques</i> | Director Direction du marché du carbone Ministère du Développement durable, de l’Environnement et de la lutte contre les changements climatiques 675 René-Lévesque Blvd. East, 6th Floor, Box 31 Québec (Québec) G1R 5V7 Phone: 418 521-3868 Fax: 418 646-4920 |
| California Air Resource Board | Executive Officer of the Air Resources Board | Executive Officer California Air Resources Board 1001 I Street Sacramento, California 95814 Phone: 916-322-7077 Fax: 916-323-1045 |
| Government of Ontario | Executive Director of the Ontario Climate Change Directorate | Director Air Policy Instruments and Program Design Branch Ministry of the Environment and Climate Change 77 Wellesley Street West, 10 th Floor Ferguson Block Toronto, Ontario M7A 2T5 Phone: 416-314-6419 |

ANNEX 2 – [STANDARD FORM]

ACCESSION AMENDING AGREEMENT

TO

**THE AGREEMENT ON THE HARMONIZATION
AND INTEGRATION OF CAP-AND-TRADE PROGRAMS
FOR REDUCING GREENHOUSE GAS EMISSIONS**

WHEREAS the Parties concluded, on [DATE], the Agreement on the harmonization and integration of cap-and-trade programs for reducing greenhouse gas emissions, hereinafter the “Agreement”;

WHEREAS [CANDIDATE PARTY’S NAME], hereinafter the “Candidate Party”, wishes to become a Party to the Agreement in accordance with its articles 18 and 19;

THE PARTIES AGREE TO THE FOLLOWING:

ARTICLE 1

PURPOSE OF THE AMENDING AGREEMENT

The Parties unanimously consent that the Candidate Party becomes a Party to the Agreement.

ARTICLE 2

CANDIDATE PARTY’S INSTRUMENT OF ACCESSION

The Candidate Party indicates it consents and agrees to become a Party to the Agreement by signing the Instrument of Accession, which is annexed to the Agreement.

The Instrument of Accession duly signed by the Candidate Party constitutes an integral part of the Agreement.

ARTICLE 3

PARTIES INTERNAL LEGAL FORMALITIES

The Parties shall complete any procedures required for the entry into force of the Accession Amending Agreement, if necessary, for the accession of the Candidate Party to the Agreement.

ARTICLE 4

ACCESSION OF THE CANDIDATE PARTY

The accession of the Candidate Party to the Agreements shall enter into full force and effect as described in the Instrument of Accession signed by the Candidate Party.

ARTICLE 5

ENTRY INTO FORCE OF THE ACCESSION AMENDING AGREEMENT

This Accession Amending Agreement shall enter into full force and effect on the date on which all the Parties have signed it.

The original English and French texts of this Agreement have the same legal force.

PARTIES' SIGNATURES

ANNEX 3 – [STANDARD FORM]

INSTRUMENT OF ACCESSION

TO

**THE AGREEMENT ON THE HARMONIZATION
AND INTEGRATION OF CAP-AND-TRADE PROGRAMS
FOR REDUCING GREENHOUSE GAS EMISSIONS**

WHEREAS the Parties concluded, on [DATE], the Agreement on the harmonization and integration of cap-and-trade programs for reducing greenhouse gas emissions, hereinafter the “Agreement”;

WHEREAS [CANDIDATE PARTY’S NAME], hereinafter the “Candidate Party”, wishes to become a Party to the Agreement in accordance with its articles 18 and 19;

WHEREAS the Parties unanimously consented, on [DATE], that the Candidate Party becomes a Party to the Agreement.

ACCESSION

The Candidate Party consents and accepts to become a Party to the Agreement.

The accession of the Candidate Party to the Agreements shall enter into full force and effect on the first day of the month following the date of receipt of the last notification from either the Parties or the Candidate Party informing the other Parties and the Candidate Party that any legally required measures have been completed.

FOR [CANDIDATE PARTY’S NAME]

At _____, on _____

SIGNATORY

FUNCTION