Appendix B – Form of Irrevocable Letter of Credit

The form of irrevocable letter of credit (“ILOC”) is provided in this appendix. A Potential Bidder providing financial security with an ILOC must arrange that the financial institution submit it either (1) electronically in portable document format (“PDF”), which is the preferred delivery format, or (2) in hardcopy.

If (1) is selected, the PDF of the ILOC must be sent to:

RGGI CO2 Budget Trading Programs Auction Manager

Email: auctionmanager.enelxnorthamerica@enel.com

If (2) is selected, the hard copy of the ILOC must be sent to:

RGGI CO2 Budget Trading Programs Auction Manager

c/o Enel X North America, Inc.

One Marina Park Drive, Suite 400

Boston, MA 02210

Phone: 703.795.8927

See Section 2.9.4 for more information.

**Form of Irrevocable Letter of Credit**

Irrevocable Letter Of Credit No. \_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_

Beneficiary:

RGGI, Inc.

90 Church Street, 4th Floor

New York, NY 10007

Ladies and Gentlemen:

By The Order Of:

[Applicant]

[Applicant’s Address]

1. We hereby establish in your favor this Irrevocable Letter of Credit (this “Letter of Credit”) for the account of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Applicant”), in the amount of USD $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, effective immediately and available to you at sight upon demand by you at our counters at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Location) and expiring on \_\_\_\_\_\_\_\_\_\_\_[expiration date must be no earlier than Thursday, December 17, 2020], unless terminated earlier in accordance with the provisions hereof or otherwise extended.
2. This Letter of Credit is issued at the request of the Applicant, and we hereby irrevocably authorize you to draw on us, in accordance with the terms and conditions hereof, up to the maximum amount of this Letter of Credit, subject to reduction as provided in Paragraph 12 hereof. This Letter of Credit may be drawn by presenting the following documents:
   1. Your Sight Draft drawn on us in the form of Annex 1 hereto (the "Sight Draft"); and
   2. A dated Payment Certificate signed by your duly authorized officer in the form of Annex 2 hereto (the "Payment Certificate").
3. Demands presented by facsimile (to facsimile number \_\_\_\_\_\_\_\_\_\_\_\_\_\_) are acceptable: provided that if any such demand is presented by facsimile and confirmed by telephone to \_\_\_\_\_\_\_\_\_\_\_\_\_\_.
4. A partial or full drawing hereunder may be made by you on any Business Day on or prior to the expiration of this Letter of Credit by delivering, by no later than 11:00 A.M. (New York, New York time ) on such Business Day to \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Bank), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
5. We hereby agree to honor a drawing hereunder made in compliance with the terms and conditions of this Letter of Credit by transferring in immediately available funds the amount specified in the Sight Draft delivered to us in connection with such drawing to such account at such bank in the United States as you may specify in your Sight Draft delivered to us pursuant to Paragraph 4 hereof, by 5:00 P.M. (New York, NY time) on the next Business Day of such drawing if delivery of the requisite documents are made prior to 11:00 A.M. (New York, NY time) on a Business Day pursuant to Paragraph 3 hereinabove, or at the opening of business on the second Business Day succeeding the date of such drawing if delivery of the requisite documents are made on or after 11:00 A.M. (New York, NY time) on any Business Day pursuant to Paragraph 4 hereinabove.
6. Only you may make any Payment Certificate and Sight Draft under this Letter of Credit.
7. All bank charges including but not limited to, fees or commissions, shall be for Applicant’s account.
8. This Letter of Credit shall automatically terminate and be delivered to us for cancellation on the earliest of (i) the making by you and payment by us of the drawings in an amount equal to the maximum amount available to be made hereunder, (ii) the date we receive from you a Certificate of Expiration in the form of Annex 3 hereto, and (iii) the above-stated expiration date hereof.
9. As used herein:

“Applicant” shall mean an Applicant to the CO2 Allowance Auction who has successfully completed the CO2 Allowance Auction Qualification Application.

“Business Day” shall mean any day on which commercial banks are not authorized or required to close in New York, New York and any day on which payments can be effected on the Fedwire system.

1. This Letter of Credit is not transferable, and except as otherwise expressly stated herein, this Letter Of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 revision), International Chamber Of Commerce Publication 600 (Provided, however, that drawings permitted hereunder shall not be deemed to be drawings by installments within Article 32 of the UCP) and as to matters not governed by the UCP, shall be governed by and construed in accordance with the laws of the State of New York and applicable U.S. Federal Law.
2. This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, changed, amplified or limited by reference to any document, instrument or agreement referred to herein, except for Annexes 1 through 3 hereto and the notices referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except as set forth above.
3. The amount which may be drawn by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid through us referencing this Letter of Credit. Partial drawings are permitted hereunder.
4. We hereby agree with you that each duly completed Sight Draft and Payment Certificate drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation to us on or before the expiry date. Our obligation under this Letter of Credit is our individual obligation, and is in no way contingent upon reimbursement with respect thereto.
5. In the event of act of God, riot, civil commotion, insurrection, war, terrorism or by any strikes or lock outs, or any cause beyond our control, that interrupts our business, and causes the place for presentation of this Letter of Credit to be closed for business on the last day of presentation, the expiration date of this Letter of Credit shall be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business.

[Based on the mode of delivery select either clause 15 option A or clause 15 option B. Delete this text and the unselected option in the final executable version of the Letter of Credit]

[Option A]

1. This original Letter of Credit has been sent to you via electronic mail. The electronic transmission of this letter of credit and any subsequent amendment(s), if any, shall serve as the operative instrument(s) and will not be followed by a hard copy. The Beneficiary may use the electronic PDF file of this Letter of Credit No. \_\_\_\_\_\_ as it would a hardcopy original. The aggregate amount paid to you during the validity of this Letter of Credit will not exceed the amount of this Letter of Credit.

[Option B]

1. This original Letter of Credit has been sent to you c/o Enel X North America, Inc., One Marina Park Drive, Suite 400, Boston, MA 02210. The aggregate amount paid to you during the validity of this Letter of Credit will not exceed the amount of this Letter of Credit.

Very truly yours,

[Signature]

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Issuing Bank Name]

[Issuing Bank Address]

**Annex 1 Irrevocable Letter of Credit**

**Sight Draft**

Letter of Credit No.: \_\_\_\_\_\_\_\_\_\_

Date of Letter of Credit: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date of Draft: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

To: (Bank)

(Address)

Attention: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

For Value Received

Pay on Demand to: RGGI, Inc., U.S. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dollars (U.S. $\_\_\_\_\_\_\_\_\_\_\_\_). The amount of this draft does not exceed the amount available to be drawn by the Beneficiary under the Letter of Credit.

We acknowledge that, upon your honoring the drawing herein requested, the amount of the Letter of Credit available for drawing shall be automatically decreased by an amount equal to this drawing.

Charge to account of [Applicant].

Drawn under [Name of Bank] Letter of Credit No. \_\_\_\_\_\_\_\_\_\_\_.

Funds to be wired to:

ABA Routing Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Receiving Bank: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Beneficiary: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Originating Bank

Information (OBI Field): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Very truly yours,

RGGI, Inc.

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

Date:

**Annex 2 Irrevocable Letter of Credit**

**Payment Certificate**

To:

[Issuing Bank]

[Address]

Re: Irrevocable Letter of Credit No: \_\_\_\_\_\_\_\_\_\_\_\_\_ [Insert]

The undersigned, a duly authorized officer of the undersigned Beneficiary, hereby certifies to [Issuing Bank], with reference to the Irrevocable Letter of Credit No: [Insert] (“Letter of Credit”), that the Applicant has winning bid(s) in the CO2 Allowance Auction and RGGI, Inc. is authorized and entitled to draw any amount up to the maximum allowed by the attached Letter of Credit.

The terms used herein which are not specifically defined herein are defined in the Letter of Credit, a copy of which is annexed hereto.

IN WITNESS WHEREOF, the Beneficiary has executed and delivered this Payment Certificate as of the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Very truly yours,

RGGI, Inc.

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

Date:

**Annex 3 Irrevocable Letter of Credit**

**Certificate of Expiration**

Letter of Credit No.: \_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_

To: (Bank)

(Address)

Attention: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Ladies and Gentlemen:

[Based on the mode of delivery selected for Letter of Credit clause 15, please select the appropriate option below. Delete this text and the unselected option in the final executable version of the Annex 3 Irrevocable Letter of Credit Certificate of Expiration.]

[Option A]

The undersigned hereby certifies to you that the above referenced Letter of Credit may be cancelled without payment. Attached hereto is an electronic copy of said Letter of Credit, marked cancelled.

[Option B]

The undersigned hereby certifies to you that the above referenced Letter of Credit may be cancelled without payment. Attached hereto is said Letter of Credit, marked cancelled.

Very truly yours,

RGGI, Inc.

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

Date:

cc: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Applicant)