

PROFESSIONAL SERVICES AGREEMENT

This Agreement (“Agreement”) is entered into as of June 13, 2022 (“Effective Date”) and will end on March 30, 2023, by and between the State of Delaware, Department of Natural Resources, Division of Climate, Coastal and Energy (“Delaware”), and RGGI, Inc., a non-profit corporation, with offices at 90 Church Street, New York, New York, 10119 (“VENDOR”).

WHEREAS Delaware desires to obtain certain services to administer the Regional Greenhouse Gas Initiative; and

WHEREAS VENDOR desires to provide such services to Delaware on the terms set forth below.

WHEREAS Delaware and VENDOR represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement.

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, Delaware and VENDOR agree as follows:

1. Services.

1.1 VENDOR shall perform for Delaware the services specified in the Appendices to this Agreement, attached hereto and made a part hereof.

1.2 Any conflict or inconsistency between the provisions of the following documents shall be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); and (b) Scope of Work, attached hereto as Appendix A. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

1.3 Delaware may, at any time, by written order, make changes in the scope of this Agreement and in the services or work to be performed. No services for which additional compensation may be charged by VENDOR shall be furnished without the written authorization of Delaware. When Delaware desires any addition or deletion to the deliverables or a change in the Services to be provided under this Agreement, it shall notify VENDOR, who shall then submit to Delaware a "Change Order" for approval authorizing said change. The Change Order shall state whether the change shall cause an alteration in the price, or the time required by VENDOR for any aspect of its performance under this Agreement. Pricing of changes shall be consistent with those established within this Agreement.

1.4 VENDOR will not be required to make changes to its scope of work that result in VENDOR’s costs exceeding the current unencumbered budgeted appropriations for the services. Any claim of either party for an adjustment under Section 1 of this Agreement shall be asserted in the manner specified in the writing

that authorizes the adjustment.

2. Payment for Services and Expenses.

2.1 The term of the initial contract shall be from June 13, 2022 through March 30, 2023.

2.2 Delaware will pay VENDOR for the performance of services described in Appendix A, Statement of Work. The fee will be paid in accordance with the payment schedule attached hereto as part of Appendix A.

2.3 Delaware's obligation to pay VENDOR for the performance of services described in Appendix A, Statement of Work will not exceed the fixed fee amount of \$ 73,560.73. It is expressly understood that the work defined in the appendices to this Agreement must be completed by VENDOR and it shall be VENDOR's responsibility to ensure that hours and tasks are properly budgeted so that all services are completed for the agreed upon fixed fee. Delaware's total liability for all charges for services that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Delaware's purchase order(s) to VENDOR. VENDOR agrees that no work will be completed, nor costs incurred to be paid under this agreement, until a fully executed purchase order has been approved by the Department of Finance in Delaware's First State Financial system.

2.4 VENDOR shall submit invoices to Delaware in sufficient detail to support the services provided. Delaware agrees to pay those invoices within thirty (30) days of receipt. In the event Delaware disputes a portion of an invoice, Delaware agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide VENDOR a detailed statement of Delaware's position on the disputed portion of the invoice within thirty (30) days of receipt. Delaware's failure to pay any amount of an invoice that is not the subject of a good-faith dispute within thirty (30) days of receipt shall entitle VENDOR to charge interest on the overdue portion at no more than 1.0% per month or 12% per annum. All payments should be sent to VENDOR at 90 Church Street, New York, New York, 10119.

2.5 Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by VENDOR. If an Appendix specifically provides for expense reimbursement, VENDOR shall be reimbursed only for reasonable expenses incurred by VENDOR in the performance of the services, including, but not necessarily limited to, travel and lodging expenses, communications charges, and computer time and supplies.

2.6 Delaware is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties from any related deficiency, which may become due and payable as a consequence of this Agreement.

2.7 Delaware shall subtract from any payment made to VENDOR all damages, costs and expenses caused by VENDOR's negligence, resulting from or arising out of errors or omissions in VENDOR's work products, which have not been previously paid to VENDOR.

2.8 Invoices shall be submitted to:

Jessica C. Quinn, Principal Planner
Climate and Sustainability Programs
DNREC Division of Climate, Coastal and Energy
100 West Water Street, Suite 10B
Dover, DE 19904

3. Responsibilities of VENDOR.

3.1 VENDOR shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by VENDOR, its subcontractors and its and their principals, officers, employees, and agents under this Agreement. In performing the specified services, VENDOR shall follow practices consistent with generally accepted professional and technical standards. VENDOR shall be responsible for ensuring that all services, products and deliverables furnished pursuant to this Agreement comply with the standards promulgated by the Department of Technology and Information ("DTI") published at <http://dti.delaware.gov/>, and as modified from time to time by DTI during the term of this Agreement. If any service, product, or deliverable furnished pursuant to this Agreement does not conform with DTI standards, VENDOR shall, at its expense and option either (1) replace it with a conforming equivalent or (2) modify it to conform with DTI standards. VENDOR shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by VENDOR's failure to ensure compliance with DTI standards.

3.2 It shall be the duty of the VENDOR to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations. VENDOR will not produce a work product that violates or infringes on any copyright or patent rights. VENDOR shall, without additional compensation, correct or revise any errors or omissions in its work products.

3.3 Permitted or required approval by Delaware of any products or services furnished by VENDOR shall not in any way relieve VENDOR of responsibility for the professional and technical accuracy and adequacy of its work. Delaware's review, approval, acceptance, or payment for any of VENDOR's services herein shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and VENDOR shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by VENDOR's performance or

failure to perform under this Agreement.

3.4 VENDOR shall appoint a Project Manager who will manage the performance of services. All of the services specified by this Agreement shall be performed by the Project Manager, or by VENDOR's associates and employees under the personal supervision of the Project Manager. The positions anticipated include:

Project	Team	Title	% of Project Involvement
	Peter Rennee	Business Manager	100%

3.5 Designation of persons for each position is subject to review and approval by Delaware. Should the staff need to be diverted off the project for what are now unforeseeable circumstances, VENDOR will notify Delaware immediately and work out a transition plan that is acceptable to both parties, as well as agree to an acceptable replacement plan to fill or complete the work assigned to this project staff position. Replacement staff persons are subject to review and approval by Delaware.

If VENDOR fails to make a required replacement within 30 days, Delaware may terminate this Agreement for default. Upon receipt of written notice from Delaware that an employee of VENDOR is unsuitable to Delaware for good cause, VENDOR shall remove such employee from the performance of services and substitute in his/her place a suitable employee.

3.6 VENDOR shall furnish to Delaware's designated representative copies of all correspondence to regulatory agencies for review prior to mailing such correspondence.

3.7 VENDOR agrees that its officers and employees will cooperate with Delaware in the performance of services under this Agreement and will be available for consultation with Delaware at such reasonable times with advance notice as to not conflict with their other responsibilities.

3.8 VENDOR has or will retain such employees as it may need to perform the services required by this Agreement. Such employees shall not be employed by Delaware or any other political subdivision of Delaware.

3.9 VENDOR will not use Delaware's name, either express or implied, in any of its advertising or sales materials without Delaware's express written consent.

3.10 The rights and remedies of Delaware provided for in this Agreement are in addition to any other rights and remedies provided by law.

4. Time Schedule.

4.1 A project schedule is included in Appendix A.

4.2 Any delay of services or change in sequence of tasks must be approved in writing by Delaware.

4.3 In the event that VENDOR fails to complete the project or any phase thereof within the time specified in the Contract, or with such additional time as may be granted in writing by Delaware, or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Agreement or any extensions thereof, Delaware shall suspend the payments scheduled as set forth in Appendix A.

5. State Responsibilities.

5.1 In connection with VENDOR's provision of the Services, Delaware shall perform those tasks and fulfill those responsibilities specified in the appropriate Appendices.

5.2 Delaware agrees that its officers and employees will cooperate with VENDOR in the performance of services under this Agreement and will be available for consultation with VENDOR at such reasonable times with advance notice as to not conflict with their other responsibilities.

5.3 The services performed by VENDOR under this Agreement shall be subject to review for compliance with the terms of this Agreement by Delaware's designated representatives. Delaware representatives may delegate any or all responsibilities under the Agreement to appropriate staff members and shall so inform VENDOR by written notice before the effective date of each such delegation.

5.4 The review comments of Delaware's designated representatives may be reported in writing as needed to VENDOR. It is understood that Delaware's representatives' review comments do not relieve VENDOR from the responsibility for the professional and technical accuracy of all work delivered under this Agreement.

5.5 Delaware shall, without charge, furnish to or make available for examination or use by VENDOR as it may request, any data which Delaware has available, including as examples only and not as a limitation:

- a. Copies of reports, surveys, records, and other pertinent documents.
- b. Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, regulations, other document, and information related to the services specified by this Agreement.

VENDOR shall return any original data provided by Delaware.

5.6 Delaware shall assist VENDOR in obtaining data on documents from public

officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Agreement.

5.7 VENDOR will not be responsible for accuracy of information or data supplied by Delaware or other sources to the extent such information or data would be relied upon by a reasonably prudent contractor.

5.8 Delaware agrees not to use VENDOR's name, either express or implied, in any of its advertising or sales materials. VENDOR reserves the right to reuse the nonproprietary data and the analysis of industry-related information in its continuing analysis of the industries covered.

6. Work Product.

6.1 All materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by VENDOR for Delaware relating to the services to be performed hereunder shall become the property of Delaware and shall be delivered to Delaware's designated representative upon completion or termination of this Agreement, whichever comes first. VENDOR shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by Delaware. Delaware shall have the right to reproduce all documentation supplied pursuant to this Agreement.

6.2 VENDOR retains all title and interest to the data it furnished and/or generated pursuant to this Agreement. Retention of such title and interest does not conflict with Delaware's rights to the materials, information and documents developed in performing the project. Upon final payment, Delaware shall have a perpetual, nontransferable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of all materials in which VENDOR retains title, whether individually by VENDOR or jointly with Delaware. Any and all source code developed in connection with the services provided will be provided to Delaware, and the aforementioned right and license shall apply to source code. The parties will cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Section.

6.3 In no event shall VENDOR be precluded from developing for itself, or for others, materials that are competitive with the Deliverables, irrespective of their similarity to the Deliverables. In addition, VENDOR shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques within the scope of its consulting practice that are used in the course of providing the services.

6.4 Notwithstanding anything to the contrary contained herein or in any attachment hereto, any and all intellectual property or other proprietary data owned by VENDOR prior to the effective date of this Agreement ("Preexisting Information") shall remain the exclusive property of VENDOR even if such

Preexisting Information is embedded or otherwise incorporated into materials or products first produced as a result of this Agreement or used to develop such materials or products. Delaware's rights under this section shall not apply to any Preexisting Information or any component thereof regardless of form or media.

7. Confidential Information.

To the extent permissible under 29 *Del. C.* § 10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled, or prepared in connection with the performance of this Agreement.

8. Warranty.

8.1 VENDOR warrants that its services will be performed in a good and workmanlike manner. VENDOR agrees to re-perform any work not in compliance with this warranty brought to its attention within a reasonable time after that work is performed.

8.2 Third-party products within the scope of this Agreement are warranted solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased by VENDOR for Delaware in connection with the provision of the Services, VENDOR shall pass through or assign to Delaware the rights VENDOR obtains from the manufacturers and/or vendors of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

9. Indemnification; Limitation of Liability.

9.1 VENDOR shall indemnify and hold harmless the State, its agents and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees) directly arising out of (A) the negligence or other wrongful conduct of the VENDOR, its agents or employees, or (B) VENDOR's breach of any material provision of this Agreement not cured after due notice and opportunity to cure, provided as to (A) or (B) that (i) VENDOR shall have been notified promptly in writing by Delaware of any notice of such claim; and (ii) VENDOR shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise.

9.2 If Delaware promptly notifies VENDOR in writing of a third party claim against Delaware that any Deliverable infringes a copyright or a trade secret of any third party, VENDOR will defend such claim at its expense and will pay any costs or damages that may be finally awarded against Delaware. VENDOR will not indemnify Delaware, however, if the claim of infringement is caused by (1) Delaware's misuse or modification of the Deliverable; (2) Delaware's failure to use

corrections or enhancements made available by VENDOR; (3) Delaware's use of the Deliverable in combination with any product or information not owned or developed by VENDOR; (4) Delaware's distribution, marketing or use for the benefit of third parties of the Deliverable or (5) information, direction, specification or materials provided by Client or any third party. If any Deliverable is, or in VENDOR's opinion is likely to be, held to be infringing, VENDOR shall at its expense and either option (a) procure the right for Delaware to continue using it, (b) replace it with a noninfringing equivalent, (c) modify it to make it noninfringing. The foregoing remedies constitute Delaware's sole and exclusive remedies and VENDOR's entire liability with respect to infringement.

10. Employees.

10.1 VENDOR has and shall retain the right to exercise full control over the employment, direction, compensation, and discharge of all persons employed by VENDOR in the performance of the services hereunder; provided, however, that it will, subject to scheduling and staffing considerations, attempt to honor Delaware's request for specific individuals.

10.2 Except as the other party expressly authorizes in writing in advance, neither party shall solicit, offer work to, employ, or contract with, whether as a partner, employee, or independent contractor, directly or indirectly, any of the other party's Personnel during their participation in the services or during the twelve (12) months thereafter. For purposes of this Section 10.2, "Personnel" includes any individual or company a party employs as a partner, employee, or independent contractor and with which a party comes into direct contact in the course of the services.

11. Independent Contractor.

11.1 It is understood that in the performance of the services herein provided for, VENDOR shall be, and is, an independent contractor, and is not an agent or employee of Delaware and shall furnish such services in its own manner and method except as required by this Agreement. VENDOR shall be solely responsible for, and shall indemnify, defend and save Delaware harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.

11.2 VENDOR acknowledges that VENDOR and any subcontractors, agents or employees employed by VENDOR shall not, under any circumstances, be considered employees of Delaware, and that they shall not be entitled to any of the benefits or rights afforded employees of Delaware, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. Delaware will not provide or pay for any liability or medical insurance, retirement

contributions or any other benefits for or on behalf of Delaware or any of its officers, employees or other agents.

11.3 VENDOR shall be responsible for providing liability insurance for its personnel.

11.4 As an independent contractor, VENDOR has no authority to bind or commit Delaware. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary, or agency relationship between the parties for any purpose.

12. Suspension.

12.1 Delaware may suspend performance by VENDOR under this Agreement for such period of time as Delaware, at its sole discretion, may prescribe by providing written notice to VENDOR at least 30 working days prior to the date on which Delaware wishes to suspend. Upon such suspension, Delaware shall pay VENDOR its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. VENDOR shall not perform further work under this Agreement after the effective date of suspension. VENDOR shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from Delaware to resume performance.

12.2 In the event Delaware suspends performance by VENDOR for any cause other than the error or omission of the VENDOR, for an aggregate period in excess of 30 days, VENDOR shall be entitled to an equitable adjustment of the compensation payable to VENDOR under this Agreement to reimburse VENDOR for additional costs occasioned as a result of such suspension of performance by Delaware based on appropriated funds and approval by Delaware.

13. Termination.

13.1 This Agreement may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Agreement through no fault of the terminating party; but only after the other party is given:

- a. Not less than 30 calendar days written notice of intent to terminate:
and
- b. An opportunity for consultation with the terminating party prior to termination.

13.2 This Agreement may be terminated in whole or in part by Delaware for its convenience, but only after VENDOR is given:

- a. Not less than 30 calendar days written notice of intent to terminate:

- and
- b. An opportunity for consultation with Delaware prior to termination.

13.3 If termination for default is affected by Delaware, Delaware will pay VENDOR that portion of the compensation which has been earned as of the effective date of termination but:

- a. No amount shall be allowed for anticipated profit on performed or unperformed services or other work, and
- b. Any payment due to VENDOR at the time of termination may be adjusted to the extent of any additional costs occasioned to Delaware by reason of VENDOR's default.
- c. Upon termination for default, Delaware may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event VENDOR shall cease conducting business, Delaware shall have the right to make an unsolicited offer of employment to any employees of VENDOR assigned to the performance of the Agreement, notwithstanding the provisions of Section 10.2.

13.4 If after termination for failure of VENDOR to fulfill contractual obligations it is determined that VENDOR has not so failed, the termination shall be deemed to have been effected for the convenience of Delaware.

13.5 The rights and remedies of Delaware and VENDOR provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

13.6 Gratuities.

13.6.1 Delaware may, by written notice to VENDOR, terminate this Agreement if it is found after notice and hearing by Delaware that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by VENDOR or any agent or representative of VENDOR to any officer or employee of Delaware with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Agreement.

13.6.2 In the event this Agreement is terminated as provided in 13.6.1 hereof, Delaware shall be entitled to pursue the same remedies against VENDOR it could pursue in the event of a breach of this Agreement by VENDOR.

13.6.3 The rights and remedies of Delaware provided in Section 13.6 shall not be exclusive and are in addition to any other rights and remedies

provided by law or under this Agreement.

14. Severability.

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

15. Assignment; Subcontracts.

15.1 Any attempt by VENDOR to assign or otherwise transfer any interest in this Agreement without the prior written consent of Delaware shall be void. Such consent shall not be unreasonably withheld.

15.2 Services specified by this Agreement shall not be subcontracted by VENDOR, without prior written approval of Delaware.

15.3 Approval by Delaware of VENDOR's request to subcontract or acceptance of or payment for subcontracted work by Delaware shall not in any way relieve VENDOR of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.

15.4 VENDOR shall be and remain liable for all damages to Delaware caused by negligent performance or non-performance of work under this Agreement by VENDOR, its subcontractor, or its sub-subcontractor.

15.5 The compensation due shall not be affected by Delaware's approval of the VENDOR's request to subcontract.

16. Force Majeure.

Neither party shall be liable for any delays or failures in performance due to circumstances beyond its reasonable control.

17. Non-Appropriation of Funds.

17.1 Validity and enforcement of this Agreement is subject to appropriations by the General Assembly of the specific funds necessary for contract performance. Should such funds not be so appropriated Delaware may immediately terminate this Agreement, and absent such action this Agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific

appropriation is available, at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

17.2 Notwithstanding any other provisions of this Agreement, this Agreement shall terminate and Delaware's obligations under it shall be extinguished at the end of the fiscal year in which Delaware fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

18. State of Delaware Business License.

VENDOR and all subcontractors represent that they are properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § 2301.

19. Complete Agreement.

19.1 This agreement and its Appendices shall constitute the entire agreement between Delaware and VENDOR with respect to the subject matter of this Agreement and shall not be modified or changed without the express written consent of the parties. The provisions of this agreement supersede all prior oral and written quotations, communications, agreements, and understandings of the parties with respect to the subject matter of this Agreement.

19.2 If the scope of any provision of this Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.

19.3 VENDOR may not order any product requiring a purchase order prior to Delaware's issuance of such order. Each Appendix, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement and modify the terms and conditions of this Agreement for the purposes of that engagement only. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

20. Miscellaneous Provisions.

20.1 In performance of this Agreement, VENDOR shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. VENDOR shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.

20.2 Neither this Agreement nor any appendix may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this

Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

20.3 The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

20.4 VENDOR covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. VENDOR further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.

20.5 VENDOR acknowledges that Delaware has an obligation to ensure that public funds are not used to subsidize private discrimination. VENDOR recognizes that if they refuse to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, Delaware may declare VENDOR in breach of the Agreement, terminate the Agreement, and designate VENDOR as non-responsible.

20.6 VENDOR warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, Delaware shall have the right to annul this contract without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

20.7 This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.

20.8 VENDOR shall maintain all public records, as defined by 29 *Del. C.* § 502(7), relating to this Agreement and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 *Del. C.* Ch. 5. During the term of this Agreement, authorized representatives of Delaware may inspect or audit VENDOR's performance and records pertaining to this Agreement at the VENDOR business office during normal business hours.

21. Insurance.

21.1 VENDOR must obtain at its own cost and expense and keep in force and effect during the term of this contract, including all extensions, the minimum coverage limits specified below with a carrier satisfactory to the State. VENDOR must carry the following coverage depending on the type of service or product

being delivered:

A. Comprehensive General Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate,

and

B. Medical/Professional Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate.

or

C. Miscellaneous Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate,

or

D. Product Liability - \$1,000,000.00 per occurrence/\$3,000,000 general aggregate,

and

E. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others,

and

F. VENDOR shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this contract. The VENDOR is an independent contractor and is not an employee of the State of Delaware.

VENDOR must carry (A), (E), and (F), and at least one of (B), (C), or (D), depending on the type of service or product being delivered.

21.2. VENDOR shall provide forty-five (45) days written notice of cancellation or material change of any policies.

21.3. Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder

is as follows:

21.4. In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

22. Assignment of Antitrust Claims.

As consideration for the award and execution of this contract by the State, VENDOR hereby grants, conveys, sells, assigns, and transfers to Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired by the State pursuant to this Contract.

23. Surviving Clauses

The following clauses survive the termination of this Contract: Section 9 (fill in all others you wish to survive termination).

24. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. VENDOR consents to jurisdiction and venue in the State of Delaware.

25. Notices.

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:

TO DELAWARE:

100 West Water Street, Suite 10B
Dover, DE 19905

TO VENDOR:

90 Church Street
New York, New York, 10119

SIGNATURE PAGE TO FOLLOW

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

**STATE OF DELAWARE
DEPARTMENT OF NATURAL
RESOURCES AND ENVIRONMENTAL
CONTROL**

Witness *[Signature]*

Eric D. Dawson

Name: Shawn M. Garvin

Title: DNREC Secretary

Date: 6/13/2022

Date: 6/13/2022

VENDOR

Witness *[Signature]*
Jan Goortsby

[Signature]

Name: Andrew J. McKeon

Title: Executive Director, RGGI, Inc.

Date: 5/20/2022

Date: May 20, 2022

Appendix A

Scope of Work in Support of the Delaware Department of Natural Resources and Environmental Control's Implementation of the CO₂ Budget Trading Program

Regional Greenhouse Gas Initiative, Inc.

The Regional Greenhouse Gas Initiative, Inc. ("RGGI, Inc.") will provide program implementation and program development services, as outlined in this scope of services, to the Delaware Department of Natural Resources and Environmental Control (DNREC) to support the state of Delaware's participation in the Regional Greenhouse Gas Initiative (RGGI) and the implementation of regulations for the Delaware CO₂ Budget Trading Program. RGGI, Inc., a non-profit organization incorporated in the State of Delaware, was formed expressly to provide technical implementation and program development support services to the participating states in RGGI, as per the RGGI Inc. By-laws dated January 3, 2019, as amended.

Tasks

RGGI, Inc. will provide services to support implementation of the Delaware CO₂ Budget Trading Program in the following six areas:

- I. Operations and maintenance of the regional emissions and allowance tracking system known as the CO₂ Allowance Tracking System (COATS), for use by DNREC in administering the Delaware CO₂ Budget Trading Program and the counterpart programs in other participating states
- II. Operation and maintenance of the regional allowance auction platform, for use by DNREC in administering the Delaware CO₂ Budget Trading Program and the counterpart programs in other participating states
- III. Market monitoring services for monitoring of both allowance auction conduct and outcomes and monitoring of the secondary allowance market for the CO₂ Budget Trading Program
- IV. Technical assistance, as needed, in the review of offset project consistency applications and offset project monitoring and verification reports; technical assistance, as needed, in the review of applications for accreditation of independent offset project verifiers
- V. Provision of program development support services on an as-requested basis, including but not limited to evaluation of additional offset categories and the development of technical and policy recommendations related to specific CO₂ Budget Trading Program elements for evaluation and consideration by the DNREC

- VI. Project Reporting on a quarterly basis outlining the status of progress in providing the deliverables specified in this scope of work

I. Emissions and Allowance Tracking System

RGGI, Inc. shall provide services to support emissions and allowance tracking for the Delaware CO₂ Budget Trading Program, or the CO₂ Allowance Tracking System (“COATS ”). RGGI, Inc shall be responsible for supporting the schedule established by the participating states for holding the auctions. In any area where services are requested, deliverables, where deemed appropriate in consultation with the DNREC, shall be presented to the DNREC in draft form for review and ultimate approval by the DNREC.

I-A. Program and Systems Operations and Maintenance

COATS Requirements

RGGI, Inc., in consultation with the DNREC, shall oversee the COATS system to support the emissions and allowance tracking and compliance aspects, as well as the offsets component, of the Delaware CO₂ Budget Trading Program. COATS shall also track allowance prices, as reported, applicable price triggers, and appropriate offsets limits.

COATS Development and Maintenance

RGGI, Inc. shall maintain the software code for COATS. RGGI, Inc. shall maintain COATS and perform extensive quality assurance and unit and integrated testing for all COATS functionalities.

If RGGI, Inc. shall modify COATS, RGGI, Inc. shall deploy a version of the application on a platform for testing and acceptance by the DNREC. Following acceptance of the alpha product, RGGI, Inc. shall provide a beta version of the Tracking System for beta users selected by the DNREC and RGGI, Inc., including industry users and representatives from participating states. Finally, RGGI, Inc. shall deploy the final version of the program. As part of the system development, RGGI, Inc. shall develop system documentation, user manuals, and other training tools.

COATS Hosting

To support COATS Internet application and database in a secure data environment, RGGI, Inc. shall contract with a third-party vendor to establish dedicated hosting for the database.

Emissions Data Tracking and Processing

In order for the Department to use the emissions data reported to U.S. EPA under 40 CFR Part 75 for purposes of determining source compliance with the requirements of the Delaware CO₂ Budget Trading Program, RGGI Inc. has implemented a process and supporting data management tools and software in coordination with U.S. EPA regarding use and access to EPA emissions data. RGGI, Inc. shall maintain through COATS emissions data management tables consistent with the Tracking System design, so that the emissions values for the compliance period are available to the Department for true-up purposes.

Offsets Module

RGGI, Inc. shall provide a Tracking System software platform that includes an offsets module to track offset project status, including project submittals, approvals, and supporting documentation, and maintain CO₂ allowances awarded to approved offset projects. RGGI, Inc. shall coordinate with the appropriate representatives of the DNREC to support administration of the offsets component of the Delaware CO₂ Budget Trading Program to ensure that the offsets applications and submittal materials used by the Department align with the capabilities and needs of the Tracking System.

The offsets module of the Tracking System shall have the functionality to track and monitor offsets project status details, such as the status of consistency applications and monitoring and verification submittals, as well as provide for public access to project documentation supporting such applications and submittals.

Tracking System Reports

The Tracking System software provided by RGGI, Inc. shall include a reports module to provide system users with reports of system data. These shall include but may not be limited to account allowance transfer reports, account holdings reports, CO₂ emissions reports, offsets reports, and source compliance summary reports.

I-B. Program Operation

RGGI, Inc. shall provide ongoing implementation and operational support for COATS, including the tasks outlined below.

Allowance Program Management

Consistent with the implementation plan developed during the program review phase of the project, RGGI, Inc. shall provide implementation support to the DNREC for all program activities relating to source management, allowance allocations to compliance and general accounts, and trades for both general and compliance accounts. This shall include the activity necessary to support the assignment of allowances to

appropriate accounts following the successful completion and DNREC approval of all allowance auctions, as well as the population of user accounts after DNREC award of each offset allowance.

Emissions Data Management and Analysis

Consistent with the program review phase of the project, RGGI, Inc. shall perform all data management and quality assurance tasks necessary to ensure the availability of annual CO₂ emissions data from all affected units. RGGI, Inc. shall prepare and send communications to the account representatives for affected sources relating to the interim, draft, and final emissions values. RGGI, Inc. shall work with DNREC to identify and resolve any issues relating to the submission of emissions data, and the accuracy and completeness of the data. To the extent requested by DNREC, RGGI, Inc. shall contact industry representatives directly to resolve any outstanding issues. RGGI, Inc. shall document all issues, their resolution, and all contacts with industry representatives.

Allowance Reconciliation (True-up)

RGGI, Inc. shall assist DNREC with the compliance assessment for the Delaware CO₂ Budget Trading Program. The Tracking System shall support data entry of compliance certifications required by the program and the identification of allowances to be deducted during the compliance process. This assessment shall factor in appropriate offsets limits as a function of a source's reported emissions. These limits will be adjusted appropriately to address the price trigger mechanisms in the participating states' regulations. RGGI, Inc. shall prepare draft and final compliance reports and will provide information to DNREC's staff contacts regarding possible non-compliance.

User Technical Support

RGGI, Inc. shall provide technical support to industry, the Department, and public users of COATS. RGGI, Inc. shall record all technical support requests, inquiries, or other occurrences in a log that identifies the nature of the request or events, requestor, respondent, response provided, date(s) and time(s) of response, and amount of chargeable time expended on the request and response. Records shall be provided to DNREC's Project Manager on a periodic basis, or on demand, as requested.

As necessary, RGGI, Inc. shall provide assessments and recommendations relating to performance of the system based on the technical support levels and user feedback. RGGI, Inc. shall not be responsible for interpretation of DNREC's regulations, and/or interpretation of actions taken by DNREC in enforcement of those regulations.

System and Database Support

RGGI, Inc. shall be responsible for all aspects of COATS maintenance and database support and management. This shall include the database initialization and

setup, ongoing database quality assurance activities, management of all user accounts and security, coordination and monitoring of the Application Service Provider support activities, database, security, and application performance, and all other tasks designed to ensure high system availability and performance. RGGI, Inc. shall provide reports to DNREC's Project Manager on all routine activities and on any events or technical issues that will affect the operation or performance of the system. RGGI, Inc. shall oversee all data backup and audit procedures to ensure the ongoing integrity of the data.

II. Allowance Auction Platform

RGGI, Inc. shall oversee and maintain a platform for the auctioning of allowances. RGGI, Inc. shall provide auction services in three general areas: pre-auction, auction implementation, and post-auction. In any area where services are requested, all deliverables will be presented to DNREC in draft form for review and ultimate approval by DNREC.

II-A. Pre-auction Services

Consultation

RGGI, Inc. shall work with DNREC staff to develop a single standard allowance purchase and sales agreement for the CO₂ Budget Trading Program for use by participating states in facilitating allowance auction transactions. In addition, RGGI, Inc. may be asked to provide general consultation to DNREC on auction design. This may include consultation on auction activity procedures and auction closing procedures.

Auction Notices

RGGI, Inc., in consultation with DNREC, shall create and disseminate documents and associated information necessary to inform auction participants about details of each auction. Each notice of auction shall provide a specific description of the auction format that will be used, the quantities of allowances to be auctioned, and all applicable participation requirements. Such information shall be made available on a publicly accessible website maintained, and hosted by RGGI, Inc. specifically dedicated to RGGI auctions. RGGI, Inc. shall prepare for, host, and facilitate at least one auction participant conference prior to each auction, which shall include an option for participants to call in, as well as receive and respond to written questions submitted by conference participants.

Participant Qualification

RGGI, Inc., in consultation with DNREC, shall assist in the development of all qualification application materials and documents. RGGI, Inc. shall manage, under the direction of DNREC, the application process, including receiving and reviewing each qualification application to determine completeness and accuracy of the information

submitted. RGGI, Inc. shall be responsible for collecting and managing, though a third party, all auction financial security submissions and/or escrow accounts. RGGI, Inc., in consultation with DNREC, shall be responsible for notifying bidders of their qualification status and maintaining a database of all qualified bidders.

Auction Documentation and Training

To prepare for each auction, RGGI, Inc. shall create and distribute auction materials, such as participation instructions, final auction procedures and manuals, as well as the distribution of user codes and passwords to qualified auction participants. In addition, RGGI, Inc. shall be responsible for training auction participants in the use of the auction software platform.

II-B. Auction Implementation Services

Auction Platform

RGGI, Inc. shall provide and administer, on behalf of DNREC, an online auction platform capable of accommodating an auction in all of the following formats:

- A sealed bid, uniform price auction
- An ascending price, multiple-round auction

Furthermore, the online auction platform shall be capable of managing allowance purchase limits based on specifications provided by the Department, and simultaneous auctions of current vintage year allowances and future vintage year allowances. Such platform shall be capable of tracking bidding activity and must provide for audit level documentation of such activity, in accordance with auction monitoring protocols to be established by RGGI, Inc. in consultation with DNREC.

II-C. Post-auction Services

RGGI, Inc. shall, on behalf of DNREC, arrange for and facilitate the transfer of funds from successful bidders to an account designated by DNREC and arrange for the return of financial security to bidders. RGGI, Inc. shall also be responsible for coordinating with the operation of the Tracking System for the transfer of allowances, at the direction of the DNREC, to the compliance or general accounts of the winning bidders. RGGI, Inc. shall also be required to: (1) work with any independent third party hired by the Department to verify the results of the auction, including potential redress; (2) if directed by DNREC, to post appropriate information about auction results; and (3) to work with DNREC to use ongoing auction experience to continuously improve subsequent auctions.

III. Market Monitoring

RGGI, Inc. shall provide market monitoring services in three general areas: monitoring and auditing of allowance auctions, monitoring of relevant secondary allowance market activity, and provision of consultative services addressing market monitoring.

III-A. Monitoring and Auditing of RGGI Allowance Auctions

RGGI, Inc. shall provide professional monitoring of all RGGI regional allowance auctions, some of which may involve a subset of participating states and may or may not include allowances submitted for auction by DNREC. RGGI, Inc. shall develop data collection methods, metrics, and analytic techniques for monitoring auction performance and thresholds for identifying any collusion, market power, and/or market manipulation that may impact the efficiency and performance of the RGGI auctions.

III-B. Monitoring of Secondary Market Behavior

RGGI, Inc. shall monitor all relevant publicly available data and indicators of market behavior in the secondary allowance market that may be expected to significantly impact the performance of RGGI auctions and the secondary allowance market.

III-C. Consultative Services

RGGI, Inc. shall provide expert advice to DNREC regarding how any aspects of the auction process should be altered in order to improve the performance and efficiency of the RGGI auctions and ensure the functioning of a fair and competitive primary allowance market (auctions) and secondary allowance market.

IV. Technical Assistance Support

RGGI, Inc. shall provide technical services, as needed, to support DNREC's review of offset project consistency applications and monitoring and verification report submittals, as well as applications for accreditation from prospective independent offset project verifiers. RGGI, Inc. shall also, as requested, help facilitate a process that provides for coordinated application and submittal review across the participating states.

V. Program Development Support

RGGI, Inc. shall provide program development support to DNREC on an as-requested basis to facilitate DNREC evaluation and consideration of potential

modifications to and/or expansion of the Delaware CO₂ Budget Trading Program. Such services may include but are not limited to the following:

- Evaluation of additional offset categories
- Development of technical and policy recommendations related to specific CO₂ Budget Trading Program elements

VII. Project Reporting

RGGI, Inc. shall designate a Project Manager, who shall be the one point of contact with DNREC. The Project Manager shall be responsible for monitoring and ensuring progress for all tasks and subtasks, and for ensuring timely delivery of all deliverables outlined in this scope of work. The RGGI, Inc. Project Manager shall be responsible for all project reporting to DNREC.

RGGI, Inc. shall submit quarterly progress reports every three months to the Department during the project term. These progress reports shall outline the status of progress in providing the deliverables specified in this scope of work, including identification of all completed/not completed work during the preceding three-month period for every major task identified in the scope of work. These progress reports shall also note any problems encountered by RGGI, Inc. and their actual or proposed resolution. At the end of the project term, RGGI, Inc. shall prepare and submit a draft final report that provides a description and summary of all major work tasks and submitted deliverables. The draft final report shall be revised within 60 days to address all Department comments, and RGGI, Inc. shall submit a final report to the Department addressing all such comments.

In any area where deliverables will be provided, such deliverables, where deemed appropriate in consultation with DNREC, shall be presented to the DNREC in draft form for review and ultimate approval by the Department.

Payment Schedule

Pursuant to 7 Del Code §6046 (c)(5). RGGI, Inc., is authorized to withdraw one third of the total of this contract following the certification of each of the first three quarterly auctions scheduled for 2022, thereby receiving 100% of the amount owed to RGGI Inc. following the third scheduled auction of 2022.

DNREC will receive all revenues from the sale of all auction allowances by electronic fund transfer from RGGI, Inc. RGGI, Inc. will not retain any payments from the sale of allowances under this agreement other than those outlined in Section 3.1 above.

CONTRACT AMENDMENT

This CONTRACT AMENDMENT ("Amendment"), effective December 15, 2023 is made by and between the State of Delaware through its Department of Natural Resources and Environmental Control ("Department") having its principal place of business at 89 Kings Highway, Dover, Delaware 19901; and the REGIONAL GREENHOUSE GAS INTIATIVE, INC. ("RGGI, Inc."), a non-profit corporation having its principal place of business at 90 Church Street, New York, New York 10119. This contract amendment amends the existing Contract between the Department and RGGI, Inc. which was executed on June 13, 2022.

The aforementioned contract is amended by striking Sections 2.1, 2.2, and 2.3 in their entirety and replacing them with a new Sections 2.1, 2.2, and 2.3 to read as follows:

2. Payment for Services and Expenses

2.1. The term of the original contract was June 13, 2022 through March 30, 2023, the agreement was subsequently extended through March 31, 2024. Through this amendment the agreement is hereby extended through March 31, 2025. Furthermore, this contract may be extended by mutual agreement by the Department and RGGI, Inc. Modifications to annual budgets will be negotiated by December 31 of each calendar year and made as an amendment to the contract as mutually agreed to by the Department and RGGI, Inc.

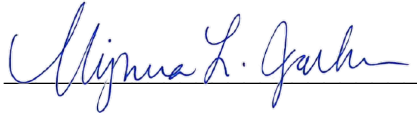
2.2 Delaware will pay VENDOR for the performance of services described in Appendix A, Statement of Work. The Fee will be paid in accordance with the Payment Schedule attached hereto as part of Appendix A: *Pursuant to 7 Del Code §6046 (c)(5). RGGI, Inc., is authorized to withdraw one third of the total of this contract following the certification of each of the first three quarterly auctions scheduled for 2024, thereby receiving 100% of the amount owed to RGGI Inc. following the third scheduled auction of 2024. If additional services are requested this amount may be increased by mutual agreement.*

2.3 Delaware's obligation to pay VENDOR for the performance of services described in Appendix A, Statement of Work will not exceed the fixed fee amount of \$101,324.72. It is expressly understood that the work defined in the appendices to this Agreement must be completed by VENDOR and it shall be VENDOR's responsibility to ensure that hours and tasks are properly budgeted so that all services are completed for the agreed upon fixed fee. Delaware's total liability for all charges for services that may become due under this Agreement is limited to the total maximum expenditure(s) authorized in Delaware's purchase order(s) to VENDOR. VENDOR agrees that no work will be completed, nor costs incurred to be paid under this agreement, until a fully executed purchase order has been approved by the Department of Finance in Delaware's First State Financial system.

SIGNATURE PAGE TO FOLLOW

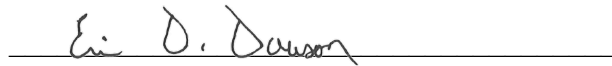
IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

**STATE OF DELAWARE
DEPARTMENT OF NATURAL
RESOURCES AND ENVIRONMENTAL
CONTROL**



Witness

Date: 01/05/2024



(For) Shawn M. Garvin, Secretary

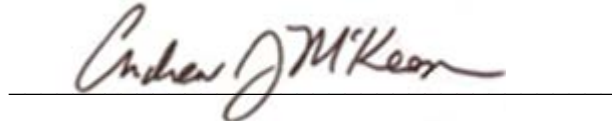
Date: 1/5/2024

**REGIONAL GREENHOUSE GAS
INITIATIVE, INC.**



Witness Peter Rennée

Date: December 15, 2023



Andrew McKeon

Date: December 15, 2023