MASTER DISPENSING AGREEMENT

This Master Dispensing Agreement (the **"Master Agreement" or "Contract"),** dated _____, (the **"Effective Date"),** is entered into by and between STX Commodities, LLC ("STX" or "Seller") and the City of Fresno a California municipal corporation, (**"City" or "Buyer"),** located at 2600 Fresno Street, Fresno, California 93721. STX and the City may be referred to herein as a **"Party"** and collectively as the **"Parties."** Unless stated otherwise, capitalized terms utilized herein shall have the meanings ascribed to them in Article 1. This agreement is for a period of two years, with options for three one-year extensions to STX, at no cost to the City.

RECITALS

WHEREAS, STX is a marketer of Renewable Natural Gas (also referred to as RNG) and the Renewable Fuel Credits (defined below) generated from the use of RNG as Vehicle Fuel (defined below);

WHEREAS, the City dispenses compressed natural Gas **("CNG")** using natural Gas extracted from a natural Gas pipeline at its compression facilities as Vehicle Fuel for its fleet of transportation vehicles;

WHEREAS, STX was a winning proposer in the City's Request for Proposals (RFP) for Revenue for Management Of LCFS/RIN Credit & RNG Supply, RFP NO. 12502230 ("the RFP");

WHEREAS, the RFP is related to the City's RNG supply for CNG dispensing purposes and the monetization of any related LCFS and/or RIN generation (the "RFP Scope of Work");

WHEREAS, in accordance with the Scope of Work, each of STX and the City desire to enter into one or more transactions to convert RNG delivered by STX book-and-claim to the City into compressed RNG **("Bio-CNG")** to be dispensed as Vehicle Fuel at the Facilities;

WHEREAS, in accordance with the Scope of Work and pursuant to the Agreement, STX will supply such RNG through the and generate RINs and LCFS Credits for Bio-CNG used as Vehicle Fuel and share the revenue from the RINs and LCFS Credits;

WHEREAS, the City is an entity that generates credits as a clean energy user by dispensing electricity to power electric vehicles and dispensing hydrogen to power fuel cell vehicles; and

WHEREAS, STX as a broker will facilitate the sale and monetization for the dispensed Electricity from EV Chargers and Hydrogen Fuel to be used as transportation fuel.

NOW**,** THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereto agree as follows:

ARTICLE I. DEFINITIONS

The following terms have the meanings specified or referred to in this Article I:

Agreement: refers to this Master Agreement.

Applicable Program means any one or both of the RFS and California

LCFS.

Bio-CNG: defined in the Recitals.

Business Day(s): shall mean Monday through Friday, excluding Federal Banking Holidays for transactions in the U.S.

CARB: means the California Air Resources Board.

Change in Law: defined in Section 2.09 of this Master Agreement.

City and **City of Fresno:** each mean the City of Fresno, CA, unless otherwise indicated.

City Manager: the City Manager of Fresno.

City Percentage: means (i) with respect to RIN Revenue, twenty-seven percent (27%); and (ii) with respect to LCFS Revenue, twenty-seven percent (27%).

City Terms and Conditions: that certain Agreement for Management of LCFS/RIN Credit Programs and Supply of RNG, agreed to by and between the Parties as of the Effective Date, and incorporated herein as Article IV through VI to this Agreement.

CNG: defined in the Recitals.

Delivery Period: as set forth in the terms.

Dispensing Fee: with respect to each month (or quarter, in the case of LCFS Revenue) of the Delivery Period, the City Percentage of RIN Revenue, and LCFS Revenue, and the Fees for Electric Charger and Hydrogen Electric Fuel as calculated in Exhibit A.

Effective Date: defined in the preamble to this Master Agreement.

Environmental Attributes: means any and all attributes, including the avoidance of Lifecycle Greenhouse Gas Emissions, that are (i) associated with the use of RNG as Vehicle Fuel and (ii) required to generate a RIN and LCFS Credit when RNG is used as Vehicle Fuel, including any and all reporting rights associated therewith, but in each case, excluding tax credits.

EPA: the U.S. Environmental Protection Agency or its successor agency.

Facility or **Facilities:** the City's compression facilities.

First Fuel Reporting Entity: means an entity that is required to report fuel transactions in LRT-CBTS pursuant to section 95483 or 95483.1. Fuel Reporting Entity refers to the first fuel reporting entity and to any entity whom the reporting entity status is passed for a given quantity of fuel.

Gas: shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.

Greenhouse Gas: carbon dioxide (CO2), methane (CH4), nitrous oxide (N20), hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride, or any other substances or combination of substances that are or may become

regulated or designated as Greenhouse Gases under any federal, state or local law or regulation, or any emission reduction registry, trading system, or reporting or reduction program for Greenhouse Gas emission reductions that is established, certified, maintained, or recognized by any international, governmental (including federal, state, or local agencies), or non-governmental agency from time to time, in each case measured in increments of one metric tons of carbon dioxide equivalent.

Hydrogen Fuel: alternative clean-burning fuel, and when combined with oxygen in a fuel cell, hydrogen produces heat and electricity with only water vapor as a by-product.

LCFS Revenue: means the revenue actually received by STX from the sale of LCFS Credits.

Generated LCFS Credits: the number of LCFS Credits generated from a quantity of Dispensed Bio-CNG attributable to the Dispensed Bio-CNG.

Law: any U.S. statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any governmental authority.

LCFS or **Low Carbon Fuel Standard:** the California Low Carbon Fuel Standard administered by CARB set forth in the California Code of Regulations at Title 17, Section 95480 *et seq.,* as amended, restated or supplemented to date.

LCFS Credits: credits generated and traded under the LCFS, with each credit equal to one metric ton of carbon dioxide reductions as compared to the baseline CO2 emissions under the LCFS.

Lifecycle Greenhouse Gas Emissions: the aggregate quantity of Greenhouse Gas emissions (including direct emissions and significant indirect emissions from land use changes), as determined by the EPA or CARB, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

Master Agreement: defined in the preamble.

Payment of Dispensing Fee: The Dispensing Fee will be remitted to the City within five (5) Business Days of the end of any month in which revenue is received by STX, as applicable.

Person: an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

Product Transfer Document (PTD): means a document that authenticates the transfer of ownership of fuel one entity (e.g. Fuel Reporting Entity or RIN separator) to the recipient of the fuel.

Q-RIN: a RIN that has been reviewed and validated by an approved QAP provider.

QAP: a registered Quality Assurance Plan under the Renewable Fuel Standard.

Renewable Fuel: has the meaning ascribed to "renewable fuel" in §80.1401 of the RFS.

Renewable Fuel Standard, RFS or **RFS2:** the renewable energy program and policies established by the Environmental Protection Agency and set forth in Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program, published on March 26, 2010 at 75 Fed. Reg. 14670 and codified at 40 C.F.R. § 80.1425 (2011), 40 C.F.R. § 80.1426 (2012), as amended, restated or supplemented to date.

Renewable Identification Number or RIN: a unique number generated under RFS2 to represent a volume of Renewable Fuel used, directly or indirectly, as Vehicle Fuel.

RIN Credits: RINs referred to in this contract are a monetizable credit recognizing the qualifying renewable fuel volume dispensed from the City's Facility pursuant to RFS2 Title 40 CFR Part 80.

Renewable Natural Gas or RNG: means a mixture of hydrocarbons that is a gas at 60 degrees Fahrenheit and 1 atmosphere of pressure that (i) is produced through the anaerobic digestion of organic matter, (ii) is processed at a landfill or anaerobic digestion facility registered or eligible to be registered as a biogas production facility under the RFS, (iii) meets the applicable quality standards of the relevant pipeline and (iv) includes all associated Environmental Attributes.

Separated RINs: means a RIN with a K code of 2 that has been separated from a volume of renewable fuel or RNG pursuant to RFS2 Section 80.1429.

Term: per Appendix B, Scope of Work.

Tracking System: a system established pursuant to the RFS or LCFS, as applicable, by which the EPA or CARB records and facilitates the generation, ownership and transfer of RINs or LCFS Credits, as applicable, including (without limitation), the EPA Moderated Transaction System (EMTS) for RINs and the LCFS Reporting Tool (LRT) for LCFS Credits.

Transportation Credits: means one or both of RINs and LCFS Credits, as applicable.

Transportation Fuel: means fuel for use in motor vehicles, motor vehicle-engines, nonroad vehicles, or nonroad engines (except fuel for use in ocean-going vessels) pursuant to RFS2 Title 40 Chapter 1 (C) Part 80(A) Section 80.2.

ARTICLE II. DELIVERY OF THE ENVIRONMENTAL ATTRIBUTE, BIO-CNG DISPENSING OBLIGATIONS, AND GENERATION OF APPLICABLE RNG CREDITS

2.01 Applicable Programs

(i) RFS: STX shall take all reasonable actions to be registered and certified, maintain all required documentation, and comply with all applicable regulations, orders, decrees and standards issued by a governmental authority implementing or otherwise applicable to the Renewable Fuel Standard as set forth in Title 40 CFR Part 80 and each successor regulation, as may be subsequently amended, modified, restated from time to time (the "RFS Requirements") then in effect as of the date of this Transaction Confirmation, for the qualifying separation of RINs.

(ii) LCFS: With respect to LCFS, STX shall take all reasonable actions to be registered and certified, maintain all required documentation, and comply with all applicable regulations, orders, decrees and standards issued by a governmental authority implementing or otherwise applicable to the California Low Carbon Fuel Standard as set forth in 17 CCR § 95480 et seq. and each successor regulation, as may be subsequently amended, modified, restated from time to time (the "LCFS Requirements") then in effect as of the date of this Transaction Confirmation, for the qualifying generation of LCFS Credits.

2.02 Agreement to roles and responsibilities under the Applicable Programs

(a) The City acknowledges their default role as a First Fuel Reporting Entity under LCFS section 95483(b)(D) and agrees to designate STX as the Fuel Reporting Entity on behalf of the City for fossil-CNG volumes dispensed at the Facility.

(b) The City acknowledges and agrees that STX will also be classified as an opt-in fuel reporting entity under Section 95483.1 of the LCFS with respect to all Dispensed Bio-CNG and will be the generator of LCFS Credits for the applicable Dispensed Bio-CNG. All LCFS Credits generated from Dispensed Bio-CNG will belong to STX; provided that STX will promptly remit to the City the Dispensing Fee as specified in Exhibit A.

(c) The City acknowledges their role as a RIN separator under RFS2 Title 40 CFR Part 80 subpart E for volumes dispensed from the Facility into vehicles, and agrees to waive all rights to that role, allowing STX to register its facilities and act as the sole RIN separator to manage all RIN separation and reporting from the City's dispensing activities. All K2 RINs separated from Dispensed Bio-CNG will belong to STX; provided that STX will promptly remit to the City the Dispensing Fee as specified in Exhibit A.

(d) The City acknowledges and agrees that they will not generate any LCFS Credits or separate any RINs associated with any Dispensed Bio-CNG hereunder.

(e) STX acknowledges and agrees that they are solely responsible for any record keeping, reporting and compliance necessary to generate LCFS credits from non-residential EV charging stations and/or Hydrogen Fueling Stations. STX agrees to market any LCFS credits generated by the City from the activities listed in this subsection pursuant to the terms in Exhibit A.

(f) Each Party acknowledges and agrees that any and all obligations of the Parties to provide information, data, documentation or other cooperation to the other Party are also applicable to an agent of the other Party in the event that such Party retains a service provider or other agent to perform any obligations under this Agreement.

2.03 Further Assurances; Affidavits; Marketing. Each Party will provide the other Party with such cooperation, additional documentation, affidavits, certifications or other information as may be reasonably necessary to carry out the purposes of this Agreement. Each of the City and STX agree to perform, and to cause any representatives or agents performing on behalf of such Party to perform, its respective obligations hereunder in accordance with the RFS, the LCFS and any other applicable statutes, rules or regulations. Additional documentation includes, without limitation, evidence of (i) the production of RNG, (ii) that such RNG was converted into Bio-CNG, and (iii) the dispensing of Dispensed Bio-CNG.

STX and the City agree to work together (and with the authorized agents or service providers of the other Party, as applicable) in good faith to ensure that each Party's daily operations with respect to the RNG, Bio-CNG and Dispensed Bio-CNG comply with necessary standards and procedures for generating Transportation Credits, including, but not limited to, requirements within transportation, storage, processing, shipping, sales and use documentation and recordkeeping of RNG volumes produced, RNG converted to Bio-CNG at each Facility and Dispensed Bio-CNG. Each Party will, and will cause any affiliate performing any of its obligations hereunder to, comply with reasonable governmental agency requests related to Transportation Credits to the extent directly related to its obligations herein.

2.04 RIN and LCFS Credit Sales and Marketing. The price at which any Transportation Credits generated from Dispensed Bio-CNG are sold by STX, and the timing of any sale thereof, will be subject to STX's commercially reasonable efforts to monetize the Transportation Credits. The Transportation Credits generated hereunder will be tracked to the sales agreement under which such Transportation Credits are sold to ensure that the revenue used to calculate the Dispensing Fee hereunder is the actual gross revenue received for such Transportation Credits.

2.05 Usage Data; Records.

(a) Each Party, as applicable, will provide to the other copies of any and all documentation required by the EPA, CARB or a QAP provider or verifier under either the RFS or LCFS, as applicable, to (i) evidence that the RNG qualifies for RIN generation under RFS2, (ii) establish and maintain a low carbon intensity pathway for generation of LCFS Credits and (ii) evidence that the RNG is converted to Bio-CNG and the quantity of Dispensed Bio-CNG. This documentation will include, but is not limited to, all documentation listed in Appendix A required to certify that production and the delivery of the RNG from its point of production at the applicable Delivery Point is compliant with the transportation routing requirements of the RFS or LCFS, as applicable, and any documentation required following delivery of Environmental Attributes to the City under the RFS or LCFS and evidence that the registration and reporting requirements, as outlined by 40 C.F.R. §80.1450, §80.1454, or §80.1426, each as amended to date, are met.

(b) The City shall maintain, or cause to be maintained, and ensure the accuracy of, all records relating to (i) the purchase of Gas by the City, (ii) the receipt of Environmental Attributes from STX under the Agreement, (iii) the bundling of the Environmental Attributes with Gas purchased by the City, (iv) the production of Bio-CNG, and (v) the dispensing of Dispensed Bio-CNG. Such records include, without limitation, a completed Product Transfer Document and Quarterly Affidavit (as described in Appendix A) and any other documentation that may be required under the RFS or LCFS, as applicable. Such documentation shall be maintained for a period of ten years from generation of such data or documentation, as applicable.

(c) STX shall maintain all records relevant to the production, purchase, sale and delivery of the Environmental Attributes to the City related to the generation and sale of RINs and LCFS Credits and shall provide such documents to the City promptly upon reasonable request. Such records include, without limitation, Product Transfer Document with respect to the Environmental Attributes provided to the City during each month or quarter (in the case of LCFS Credits) of the Delivery Period.

(d) The City shall maintain, or cause to be maintained, and ensure the accuracy of, all records relating to (i) the purchase of Electricity from EV Chargers and Hydrogen Fuel by the City, and (ii) the Dispensed Electricity from EV Chargers and Hydrogen Fuel. Such records include, without limitation, a completed Product Transfer Document and any other documentation that may be required under the LCFS,

as applicable. Such documentation shall be maintained for a period of ten years from generation of such data or documentation, as applicable.

2.06 Reporting. Each Party shall facilitate access for the other Party or its relevant agents to any and all records relevant to Bio-CNG, Dispensed Bio-CNG, Electricity from EV Chargers, Hydrogen Fuel, and the resulting RINs and LCFS Credits generated and sold for any portion of the Delivery Period upon the reasonable request of such other Party, subject to any applicable confidentiality obligations.

2.07 Fees.

(a) In return for performance of the obligations of the City, the City will receive the Dispensing Fee set forth in Exhibit A. For the avoidance of doubt, no Dispensing Fee will be payable unless and until (i) Transportation Credits are generated from Dispensed Bio-CNG, (ii) the Transportation Credits generated from the Dispensed Bio-CNG are sold by STX or its designee, and (iii) proceeds are received by STX from such sale(s).

(b) In return for performance of the obligations of the City, the City will receive the revenue for market sales set forth in Exhibit A. For the avoidance of doubt, sales revenue will not be payable unless and until (i) Transportation Credits are generated from Dispensed Electricity from EV Chargers or Hydrogen Fuel, (ii) the Transportation Credits generated from the Dispensed Electricity from EV Chargers or Hydrogen Fuel are sold by STX or its designee, and (iii) proceeds are received by STX from such sale(s).

2.08 Revenue Report. When a payment of the Dispensing Fee is made to the City, STX will provide the City with a report indicating the Transportation Credits to which the payment relates and the sales price of such Transportation Credits. STX will also provide the City with a report of the Transportation Credits generated from the Dispensed Bio-CNG each month (or quarter, in the case of LCFS Credits) of the Delivery Period.

2.09 Market Interruption; Change in Law.

(a) any (x) action or inaction of the EPA, CARB or any other administrative or executive, legislative or judicial action, inaction, process, rule, notice, order, ruling or decree or (y) change in applicable law, rule or regulation, or the interpretation of an existing law, rule or regulation ("a **"Change in Law"**) that:

(i) Suspends indefinitely or terminates the Applicable Program, each of STX and the City shall have the right to suspend or terminate this Agreement by providing written notice to the other Party of such termination;

(ii) Results in or otherwise contributes to an interruption in either the RIN market or LCFS market, as applicable, STX shall have the right to suspend or terminate this Agreement by providing written notice to the City of such termination; and

(iii) Disallows or renders any means or aspect of performance of this Agreement unlawful, the affected Party may terminate this Agreement by providing written notice of termination to the other Party.

(b) Any notice of termination pursuant to Section 3.02 must be received within 30 calendar days of the event resulting in such termination or the party's receipt of notice of such event, as applicable.

(c) In the event of termination pursuant to Section 3.02, neither STX nor the City shall have any obligation or liability to any other party associated or in connection with, or in any way arising out of, such termination, except with respect to any RNG delivered to the City prior to termination of this Agreement.

ARTICLE III. GENERAL CONDITIONS

3.01 Delivery of Services: If STX is delayed providing services by (i) any acts or omissions of City or its employees, or others acting under authority of City by contract or otherwise, (ii) acts of God which STX could not reasonably have foreseen and provided for, (iii) illegal strikes, boycotts or like illegal obstructive action by employee or labor organizations, or (iv) any illegal general lockouts or other defensive action by employers, whether general or by organizations of employers; STX shall have no claim for damages against City for any such cause of delay, but shall be entitled to an extension of time as will reasonably compensate STX for actual loss of time occasioned thereby. STX may apply to the City Manager for such an extension. However, no such extension of time shall be granted unless STX shall have notified the Purchasing Manager, in writing, within one week after the commencement or occurrence of the condition or event which is expected to cause a delay in delivery, of such condition or event and the actual or estimated number of days of delay anticipated on account thereof. The decision of the City Manager as to the number of additional days, if any, to be allowed for completion of delivery on account of such condition or event, will be given in writing to STX.

3.02 Termination, Remedies, Force Majeure and Consolidation of Disputes:

a) This Agreement shall terminate without any liability of City to STX upon the earlier of: (i) STX's filing for protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver

commenced by a third party against STX; (ii) 7 calendar days prior written notice with or without cause by City to STX; (iii) City's non-appropriation of funds sufficient to meet its obligations hereunder during any City fiscal year of this Agreement, or insufficient funding for the Project; or (iv) expiration of this Agreement. In the event the of termination, the Parties shall satisfy any remaining payment obligations.

b) On written notice on which to terminate, the STX shall liquidate and accelerate all outstanding Transactions and calculate a Termination Payment. To the extent that, in the reasonable opinion of the Performing Party, certain Transactions may not be liquidated and terminated under Applicable Law on the Early Termination Date, such Transactions shall be terminated as soon thereafter as is reasonably practicable, in which case the actual termination date for such Transactions will be the Early Termination Date.

c) Upon any breach of this Agreement by STX, City may (i) exercise any right, remedy (in contract, law or equity), or privilege which may be available to it under applicable laws of the State of California or any other applicable law; (ii) proceed by appropriate court action to enforce the terms of the Agreement; and/or (iii) recover all direct, indirect, consequential, economic and incidental damages for the breach of the Agreement. If it is determined that City improperly terminated this Agreement for default, such termination shall be deemed a termination for convenience.

d) STX shall provide City with adequate written assurances of future performance, upon the request of the Director or his/her designee, in the event STX fails to comply with any terms or conditions of this Agreement.

e) Force Majeure: as set forth in Appendix B – Scope of Work, Special Conditions, Section (c).

f) STX agrees that, notwithstanding any contrary provision in this Agreement, any dispute arising from or relating to this Agreement (including, without limitation, disputes based on contract, tort, equity or statute) may, at City's option, be joined and consolidated with any other dispute or disputes arising from or relating to the Project so that all disputes arising from or relating to the Project may be resolved in a single proceeding. STX hereby specifically waives any objection it may otherwise have to such joinder and consolidation and specifically consents to mediation, arbitration or any other dispute resolution mechanism, forum or proceeding necessary to effectuate the joinder and consolidation contemplated by this provision.

3.03 Confidential Information, Ownership of Documents and Copyright License: Any reports, information, or other data prepared or assembled by STX pursuant to this Agreement shall not be made available to any individual or organization by STX without the prior written approval of City. During the term of this Agreement, and thereafter, STX shall not, without the prior written consent of City, disclose to anyone any Confidential Information. The term Confidential Information for the purposes of this Agreement shall include all proprietary and confidential information of City, including but not limited to business plans, marketing plans, financial information, designs, drawings, specifications, materials, compilations, documents, instruments, models, source or object codes and other information disclosed or submitted, orally, in writing, or by any other medium or media. All Confidential Information shall be and remain confidential and proprietary in City.

If STX should subcontract all or any portion of the services to be performed under this Agreement, STX shall cause each subcontractor to also comply with the requirements of this Section 3.03. This Section 3.03 shall survive expiration or termination of this Agreement.

3.04 Indemnification: To the furthest extent allowed by law, STX shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of STX, its principals, officers, employees, agents or volunteers in the performance of this Agreement.

If STX should subcontract all or any portion of the services to be performed under this Agreement, STX shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Agreement.

3.05 Insurance:

a) Throughout the term of this Agreement, STX shall pay for and maintain in full force and effect all insurance as required in Exhibit B, which is incorporated into and part of this Agreement, with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated no less “than ”A-VII" in the Best's Insurance Rating Guide, or (ii) as may be authorized in writing by City's Risk Manager or his/her designee at any time and in his/her sole discretion. The

required policies of insurance as stated in Exhibit B shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to City, its officers, officials, employees, agents and volunteers as additional insureds, shall be the greater of the minimum limits specified therein or the full limit of any insurance proceeds to the named insured.

b) If at any time during the life of the Agreement or any extension, STX or any of its subcontractors/sub-consultants fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to STX shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City pursuant to this section shall in any way relieve STX of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by City that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

c) The fact that insurance is obtained by STX shall not be deemed to release or diminish the liability of STX, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by STX. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of STX, its principals, officers, agents, employees, persons under the supervision of STX, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

3.06 Conflict Of Interest and Non-Solicitation:

a) Prior to City's execution of this Agreement, STX shall complete a City of Fresno conflict of interest disclosure statement in the form as set forth in the Disclosure of Conflict of Interest (page 14). During the term of this Agreement, STX shall have the obligation and duty to immediately notify City in writing of any change to the information provided by STX in such statement.

b) STX shall comply, and require its subcontractors to comply, with all applicable (i) professional canons and requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without

limitation, California Government Code Section 1090 et. seq., the California Political Reform Act (California Government Code Section 87100 et. seq.), the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations Section 18700 et. seq.) and Section 4- 112 of the Fresno Municipal Code (Ineligibility to Compete). At any time, upon written request of CIW, STX shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, STX and the respective subcontractor(s) are in full compliance with all laws and regulations. STX shall take, and require its subcontractors to take, reasonable steps to avoid any appearance of a conflict of interest. Upon discovery of any facts giving rise to the appearance of a conflict of interest, STX shall immediately notify City of these facts in writing.

c) In performing the work or services to be provided hereunder, STX shall not employ or retain the services of any person while such person either is employed by City or is a member of any City council, commission, board, committee, or similar City body. This requirement may be waived in writing by the City Manager, if no actual or potential conflict is involved.

d) STX represents and warrants that it has not paid or agreed to pay any compensation, contingent or otherwise, direct or indirect, to solicit or procure this Agreement or any rights/benefits hereunder.

e) Neither STX, nor any ’f STX's subcontractors performing any services on this Project, shall bid for, assist anyone in the preparation of a bid for, or perform any services pursuant to, any other contract in connection with this Project. STX and any of its subcontractors shall have no interest, direct or indirect, in any other contract with a third party in connection with this Project unless such interest is in accordance with all applicable law and fully disclosed to and approved by the City Manager, in advance and in writing.

f) If STX should subcontract all or any portion of the work to be performed or services to be provided under this Agreement, STX shall include the provisions of this Section 3.06 in each subcontract and require its subcontractors to comply therewith.

g) This Section 3.06 shall survive expiration or termination of this Agreement.

3.07 Recycling Program: In the event STX maintains an office or operates a facility(ies), or is required herein to maintain or operate same, within the incorporated limits of the City of Fresno, STX at its sole cost and expense shall:

(i) Immediately establish and maintain a viable and ongoing recycling program, approved by City's Solid Waste Management Division, for each office and facility. Literature describing City recycling programs is available from City's Solid Waste Management Division and by calling City of Fresno Recycling Hotline at (559) 621-1111.

(ii) Immediately contact City's Solid Waste Management Division at (559) 621-1452 and schedule a free waste audit, and cooperate with such Division in their conduct of the audit for each office and facility.

(iii) Cooperate with and demonstrate to the satisfaction o' City's Solid Waste Management Division the establishment of the recycling program in paragraph (i) above and the ongoing maintenance thereof.

3.08 General Terms:

a) Except as otherwise provided by law, all notices expressly required of City within the body of this Agreement, and not otherwise specifically provided for, shall be effective only if signed by the Director or his/her designee.

b) Records of STX's expenses pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to City or its authorized representatives upon request during regular business hours throughout the life of this Agreement and for a period of three years after final payment or, if longer, for any period required by law. In addition, all books, documents, papers, and records of STX pertaining to the Project shall be available for the purpose of making audits, examinations, excerpts, and transcriptions for the same period of time. If any litigation, claim, negotiations, audit or other action is commenced before the expiration of said time period, all records shall be retained and made available to City until such action is resolved, or until the end of said time period whichever shall later occur. If STX should subcontract all or any portion of the services to be performed under this Agreement, STX shall cause each subcontractor to also comply with the requirements of this paragraph. This Section 3.08(b) shall survive expiration or termination of this Agreement.

c) Prior to execution of this Agreement by City, STX shall have provided evidence to City that STX is licensed to perform the services called for by this Agreement (or that no license is required). If STX should subcontract all or any portion of the work or services to be performed under this Agreement, STX shall require each subcontractor to provide evidence to City that subcontractor is licensed to perform the services called for by this Agreement (or

that no license is required) before beginning work.

d) STX's services pursuant to this Agreement shall be provided under the supervision of Tim Pabst, and he/she shall not assign another to supervise STX's performance of this Agreement without the prior written approval of the Director.

3.09 Nondiscrimination: To the extent required by controlling federal, state and local law, STX shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Subject to the foregoing and during the performance of this Agreement, STX agrees as follows:

a) STX will comply with all applicable laws and regulations providing that no person shall, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.

b) STX will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, gender identification, status as a disabled veteran or veteran of the Vietnam era. STX shall ensure that applicants are employed, and the employees are treated during employment, without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, gender identification, status as a disabled veteran or veteran of the Vietnam era, Such requirement shall apply to STX's employment practices including, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. STX agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

c) STX will, in all solicitations or advertisements for employees placed by or on behalf of STX in pursuit hereof, state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical

disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era.

d) STX will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising such labor union or workers' representatives of STX's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

e) If STX should subcontract all or any portion of the services to be performed under this Agreement, STX shall cause each subcontractor to also comply with the requirements of this Section 3.09.

3.10 Independent Contractor:

a) In the furnishing of the services provided for herein, STX is acting solely as an independent contractor. Neither STX, nor any of its officers, agents or employees shall be deemed an officer, agent, employee, joint venturer, partner or associate of City for any purpose. City shall have no right to control or supervise or direct the manner or method by which STX shall perform its work and functions. However, City shall retain the right to administer this Agreement so as to verify that STX is performing its obligations in accordance with the terms and conditions thereof.

b) This Agreement does not evidence a partnership or joint venture between STX and City. STX shall have no authority to bind City absent City’s express written consent. Except to the extent otherwise provided in this Agreement, STX shall bear its own costs and expenses in pursuit thereof.

c) Because of its status as an independent contractor, STX and its officers, agents and employees shall have absolutely no right to employment rights and benefits available to City employees. STX shall be solely liable and responsible for all payroll and tax withholding and for providing to, or on behalf of, its employees all employee benefits including, without limitation, health, welfare and retirement benefits. In addition, together with its other obligations under this Agreement, STX shall be solely responsible, indemnify, defend and save City harmless from all matters relating to employment and tax withholding for and payment ’f STX's employees, including, without limitation, (i) compliance with Social Security and unemployment insurance withholding, payment of workers' compensation benefits, and all other laws and regulations governing matters of employee withholding, taxes and payment; and (ii) any claim of right or interest in City employment benefits,

entitlements, programs and/or funds offered employees of City whether arising by reason of any common law, de facto, leased, or co-employee rights or other theory. It is acknowledged that during the term of this Agreement, STX may be providing services to others unrelated to City or to this Agreement.

3.11 Notices: Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by facsimile followed by telephone confirmation of receipt, or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof.

3.12 Binding: Once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs, successors, assigns, transferees, agents, servants, employees and representatives.

3.13 Assignment:

a) This Agreement is personal to STX and there shall be no assignment by STX of its rights or obligations under this Agreement without the prior written approval of the City Manager or his/her designee. Any attempted assignment by STX, its successors or assigns, shall be null and void unless approved in writing by the City Manager or his/her designee.

b) STX hereby agrees not to assign the payment of any monies due STX from City under the terms of this Agreement to any other individual(s), corporation(s) or entity(ies). City retains the right to pay any and all monies due STX directly to STX.

3.14 Compliance With Law: In providing the services required under this Agreement, STX shall at all times comply with all applicable laws of the United States, the State of California and City, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement.

3.15 Waiver: The waiver by either party of a breach by" the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision

herein.

3.16 Governing Law And Venue: This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.

3.17 Headings: The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.

3.18 Severability: The provisions of this Agreement are severable. The invalidity, or unenforceability of any one provision in this Agreement shall not affect the other provisions.

3.19 Interpretation: The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.

3.20 Attorney's Fees: if either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

3.21 Exhibits: Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.

3.22 Precedence Of Documents: In the event of any conflict between the body of this Agreement and any Exhibit or Attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the Exhibit or Attachment. Furthermore, any terms or conditions contained within any Exhibit or Attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement, shall be null and void.

3.23 Cumulative Remedies: No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

3.24 No Third Beneficiaries: The rights, interests, duties and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything

stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

3.25 Extent Of Agreement: Each party acknowledges that they have read and fully understand the contents of this Agreement and any Requests for Qualifications and/or Requests for Proposals, together with any documents issued therewith (collectively, "RFQ/P") by City that resulted in selection of STX for entry into this Agreement. This Agreement incorporates by reference such RFQ/P, which together represent the entire and integrated agreement between the parties with respect to the subject matter hereof and supersede all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both City and STX.

ARTICLE IV. SPECIAL CONDITIONS

4.01 Payment: The Proposer shall ensure payment to the City of Fresno on or before the last business day of the fourth month following a calendar quarter of obtaining a certified CI and reporting transactions quantities according to Section 2.08. Seller shall provide supporting documentation with each remittance:

4.02 Changes to Contract Documents: The City of Fresno may, from time to time, without invalidating the Contract, modify the Contract; by adding, deleting or changing sections of the Contract; by adding deleting or changing usage or space; by adding, deleting or changing Routine Work or Projects; by adding deleting or changing Special Conditions; or by adding, deleting or changing Specifications. All such changes shall be ordered by means of a Written Change Order. Any changes in the compensation to STX resulting from such Change Orders shall be agreed upon by the City of Fresno and the STX. Additionally, the parties may modify the Contract by written amendment.

4.03 Notice to Proceed: STX shall not commence any work until he/she has received a written Notice to Proceed.

4.04 Contract Administrator: The City of Fresno designates the Director, Department of Transportation/FAX, as Contract Administrator, who shall act on behalf of the City with respect to all aspects of this Contract. The City shall promptly notify STX in writing if the Contract Administrator is changed.

The Contract Administrator and designated representative shall have complete authority to require the STX to comply with all provisions of this Contract. STX shall strictly and promptly follow the instructions of the Contract Administrator. The Contract Administrator's decision upon all questions claims and disputes will be final and conclusive upon the parties

of the Contract. The Contract Administrator shall exercise any discretionary authority in a reasonable manner.

The Contract Administrator shall decide any and all questions which may arise as to conformance of and acceptability of methods and procedures used in the performance of the Services with regard to the requirements included herein. The Contract Administrator shall decide all questions which may arise as to the interpretation of the Contract Documents relative to the Services and the fulfillment of the Contract on the part of STX.

The Contract Administrator shall have the authority to require STX to make temporary changes in the assignment of routine work, tasks and task frequencies. Such temporary changes shall not affect the amount of payment to STX.

4.05 Contract Coordinator: The Contract Administrator shall designate the Projects Administrator of Projects Development, Department of Transportation/FAX, as Contract Coordinator to monitor and inspect the performance of the Services provided under this Contract.

The Contract Coordinator has no authority to alter, waive or revoke any provision of this Contract. Any failure of STX to comply with the provisions of the Contract may be called to the attention of the Contract Administrator by the Contract Coordinator.

The Contract Coordinator shall have the authority to suspend the performance of the Services and compensation to STX until the Contract Administrator can decide any questions at issue.

Any advice provided to STX by the Contract Coordinator shall in no way be construed as binding upon the City of Fresno, or release the STX from fulfilling the provisions of the Contract.

4.06 Performance of the Services: STX shall be responsible for the complete and timely performance of all the Services under this Contract and for all manner and type of tools, equipment, supplies and materials of every description required to successfully perform all Services under this Contract.

4.07 Non-Performance of Services: Services shall be considered not to have been performed when, in the judgment of the Contract Administrator, any one or more of, but not limited to, the following conditions exist:

Adherence to established response times,

Failure to provide payments and reports per schedule and on time, or

Failure to conform to the requirements per Statement of Work in Appendix B.

4.08 Evaluation of Options: Except when it is determined not to be in the city's best interests, the City will evaluate the total price for the basic requirement together with any option(s) exercised at the time of award.

ARTICLE V. INSURANCE REQUIREMENTS

INSURANCE REQUIREMENTS MINIMUM

5.01 Scope of Insurance

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, providing liability coverage arising out of your business operations. The Commercial General Liability policy shall be written on an occurrence form and shall provide coverage for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non- owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability not less than those set forth under "Minimum Limits of Insurance."

2. The most current version of ISO *Commercial Auto Coverage Form CA 00 01, providing liability coverage arising out of the ownership, maintenance or use of automobiles in the course of your business operations. The Automobile Policy shall be written on an occurrence form and shall provide coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto). If personal automobile coverage is used, the CITY, its officers, officials, employees, agents, and volunteers are to be listed as additional insureds.

3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

4. Professional Liability (Errors and Omissions) insurance appropriate to STX's profession.

5.02 Minimum Limits of Insurance

STX, or any party the STX subcontracts with, shall maintain limits of liability of not less than those set forth below. However, insurance limits available to CITY, its officers, officials, employees, agents, and volunteers as additional insureds, shall be the greater of the minimum limits specified herein or the full limit of any insurance proceeds available to the named insured:

1. **Commercial General Liability:**

(i) $1,000,000 per occurrence for bodily injury and property damage;
(ii) $1,000,000 per occurrence for personal and advertising injury;
(iii) $2,000,000 aggregate for products and completed operations; and,
(iv) $2,000,000 general aggregate applying separately to the work performed under the Agreement.

2. **Commercial Automobile Liability**: $1,000,000 per accident for bodily injury and property damage.

3. **Workers' Compensation Insurance** as required by the State of California with statutory limits.

4. **Employer's Liability**:
(i) $1,000,000 each accident for bodily injury;
(ii) $1,000,000 disease each employee; and,
(iii) $1,000,000 disease policy limit.

5. **Professional Liability** (Errors and Omissions):
(i) $1,000,000 per claim/occurrence; and,
(ii) $2,000,000 policy aggregate.

5.03 Umbrella or Excess Insurance

In the event STX purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the CITY, its officers, officials, employees, agents, and volunteers.

5.04 Deductibles and Self-Insured Retentions

STX shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and STX shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared to on the Certificate of Insurance, and approved by, the CITY's Risk Manager or designee. At the option of the CITY's Risk Manager or designee, either:

(i) The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, officials, employees, agents, and volunteers; or

(ii) STX shall provide a financial guarantee, satisfactory to CITY's Risk Manager or designee, guaranteeing payment of losses and related investigations, claim administration and

defense expenses. At no time shall CITY be responsible for the payment of any deductibles or self-insured retentions.

5.05 Other Insurance Provisions/Endorsements

The *General Liability and Automobile Liability insurance policies* are to contain, or be endorsed to contain, the following provisions:

1. CITY, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds. STX shall establish additional insured status for the City and for all ongoing and completed operations under the Commercial General Liability policy by use of ISO Forms or an executed manuscript insurance company endorsement providing additional insured status. The Commercial General endorsements must be as broad as that contained in ISO Forms: GC 20 10 11 85 or both CG 20 10 & CG 20 37.

2. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, officials, employees, agents, and volunteers. Any available insurance proceeds in excess of the specified minimum limits and coverage shall be available to the Additional Insured.

3. For any claims relating to this Agreement, STX's insurance coverage shall be primary insurance with respect to the CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, and volunteers shall be excess of STX's insurance and shall not contribute with it. STX shall establish primary and non-contributory status by using ISO Form CG 20 01 04 13 or by an executed manuscript insurance company endorsement that provides primary and non-contributory status as broad as that contained in ISO Form CG 20 01 04 13.

The *Workers' Compensation insurance policy* is to contain, or be endorsed to contain, the following provision: STX and its insurer shall waive any right of subrogation against CITY, its officers, officials, employees, agents, and volunteers.

If the *Professional Liability (Errors and Omissions) insurance policy* is written on a claims- made form:

1. The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by STX.

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the

Agreement work or termination of the Agreement, whichever occurs first, or, in the alternative, the policy shall be endorsed to provide not less than a five (5) year discovery period.

3. If coverage is canceled or non-renewed, and not replaced with another claims- made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by STX, STX must purchase "extended reporting" coverage for a minimum of five (5) years completion of the Agreement work or termination of the Agreement, whichever occurs first.

4. A copy of the claims reporting requirements must be submitted to CITY for review.

5. These requirements shall survive expiration or termination of the Agreement.

All policies of insurance required herein shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar days written notice by certified mail, return receipt requested, has been given to CITY. STX is also responsible for providing written notice to the CITY under the same terms and conditions. Upon issuance by the insurer, STX, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, TX shall furnish CITY with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for CITY, STX shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than fifteen (15) calendar days prior to the expiration date of the expiring policy.

Should any of the required policies provide that the defense costs are paid within the Limits of Liability, thereby reducing the available limits by any defense costs, then the requirement for the Limits of Liability of these policies will be twice the above stated limits.

The fact that insurance is obtained by STX shall not be deemed to release or diminish the liability of STX, including, without limitation, liability under the indemnity provisions of this Agreement. The policy limits do not act as a limitation upon the amount of indemnification to be provided by STX. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of STX, its principals, officers, agents, employees, persons under the supervision of STX, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

5.06 Subcontractors

If STX subcontracts any or all of the services to be performed under this Agreement, STX shall require, at the discretion of the CITY Risk Manager

or designee, subcontractor(s) to enter into a separate Side Agreement with the City to provide required indemnification and insurance protection. Any required Side Agreement(s) and associated insurance documents for the subcontractor must be reviewed and preapproved by CITY Risk Manager or designee. If no Side Agreement is required, STX will be solely responsible for ensuring that its subcontractors maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant industry.

5.07 Verification of Coverage

STX shall furnish CITY with all certificate(s) and **applicable endorsements** effecting coverage required hereunder. All certificates and **applicable endorsements** are to be received and approved by the CITY'S Risk Manager or his/her designee prior to CITY'S execution of the Agreement and before work commences. All non-ISO endorsements amending policy coverage shall be executed by a licensed and authorized agent or STX. Upon request of CITY, STX shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

WHEREFORE, the parties acknowledge that they have read and understand this Agreement and voluntarily accept the duties and obligations set forth herein.

CITY OF FRESNO, a California municipal corporation

By: _____
Georgeanne A. White
City Manager

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

By: Signed by: Jennifer Wharton 250AD6D4466E467... _____
Jennifer M. Wharton Date
Deputy City Attorney

ATTEST:
AMY K. ALLER
Interim City Clerk

By: _____
Deputy Date

STX Commodities, LLC

By: Signed by: Tim Pabst 29F0DBDD025240B... _____
Timothy Pabst
Manager

By: DocuSigned by: Fabian Roobeek 4845396EA62D492... _____
Fabian Roobeek
Manager

Addresses:

CITY:
City of Fresno
Attention: Joana Garcia
Management Analyst II
2223 G Street
Fresno, CA 93706
Telephone: (559) 621-1470
E-Mail: Joana.Garcia@Fresno.gov

CONTRACTOR:
STX Commodities, LLC
Attention: Robert Cooleen
Senior Sales Trader
11 Times Sq Floor 31
New York, NY 10018
Telephone: (212) 597-9439
E-Mail: Robert.Cooleen@stxgroup.com

Attachments:

1. **Exhibit A** - Dispensing Fee: RIN and LCFS Credit Revenue Share Percentages to the City
2. **Appendix A** – Obligations and Documentation for Transportation Credit Generation in LCFS and RFS2
3. **Appendix B**- Scope of Work

EXHIBIT A

DISPENSING FEE: RIN AND LCFS CREDIT REVENUE SHARE PERCENTAGES TO THE CITY

STX shall pay the City the below percentiles of the LCFS and RIN credits sales generated from the City's use of the Dispensed Bio-CNG as Vehicle Fuel in accordance with and as described in the Agreement:

Credit Type	Initial Contract Term		Option Years		
	Year 1	Year 2	Year 3	Year 4	Year 5
Generated LCFS Credits	27%	27%	27%	27%	27%
RIN Credits	27%	27%	27%	27%	27%

Credit Type	Electric Charger Fee	Hydrogen Electric Fuel Fee
LCFS Credits	$0	$0
RIN Credits	$0	$0

APPENDIX A
Obligations and Documentation for Transportation Credit Generation in LCFS and RFS2

1. **In the case of RFS2:**

   The City shall, upon final signature, provide STX with all the documentation needed to register the CNG stations under STX's EPA's Moderated Transaction System (EMTS) account.

   The City shall share with STX records to support the timely separation of K1/K3 RINs into K2 RINs no later than the 20th day of the month follow dispensing. Records include but are not limited to natural gas utility bill statements.

   The month following dispensing and after STX receives all applicable records from the City, STX will separate the RINs on behalf of the City based on the volume of Bio-CNG dispensed at the station(s).

2. **In the case of LCFS:**

   The City shall maintain and share records with STX to allow for timely LCFS credit generation, including but not limited to

   (a) FSE ID,

   (b) Quantity of fuel dispensed per Fueling Supply Equipment (FSE) for each applicable fuel code,

   (c) A completed Natural Gas Total Throughput Report as available to download on LRT-CBTS homepage,

   (d) Unredacted contracts for the Environmental Attribute delivered by STX to the City for use to produce Bio-CNG to dispense into vehicles., showing the exclusive sale of rights to the Environmental Attribute to the Facility with an attached Fueling Supply Equipment ID as prescribed by CARB upon registration, and,

   (e) Utility meter invoices to demonstrate the volume of natural gas extracted from the common carrier pipeline and bundled with the Environmental Attribute to produce Bio-CNG for dispensing. (f) Quarterly affidavit attesting to the purchase/sale and use of the fuel.

APPENDIX B
Scope of Work

Contract Price: with respect to the Credit Type, Initial Contract Term and Option Years, as set forth in Exhibit A. LCFS Credit Revenue Share payable to the city shall be based off of a –200 under GREET 4.0 (the "CI Score").

Term: with respect to the Initial Contract Term and Option Years, as set forth in Exhibit A. The Initial Contract Term shall commence upon the date of STX's successful achievement of each Applicable Program as described in Article II, Section 2.01(i) and (ii) in the Master Agreement and shall expire on the second anniversary of the Effective Date. STX may waive such requirement at any time and commence the Initial Contract Term upon written notification to City. Until the Contract Term commences, STX shall not be liable for any deficits.

Performance Obligation: with respect to the Initial Contract Term and for each Option Year, as applicable, Seller shall sell and Buyer shall purchase the Contract Quantity on the following basis:

Firm (Variable Quantity): 100% of CNG dispensed volumes for the Buyer's relevant stations. For the avoidance of doubt, Buyer will exclusively allocate all CNG dispensed volumes for those stations to Seller for purposes of RIN and/or LCFS generation.

Delivery Point(s): The Delivery Point shall be the outlet flange of

Meter Number: 61686638

Address: 2223 G Street, Fresno, CA 93706

Applicable Program: The Applicable Program for RNG sold by Seller and purchased by Buyer shall be governed by the following entity: (select at least one)

x US EPA Renewable Fuel Standard

x Low Carbon or Clean Fuel Standard – State: California

RNG and Environmental Attributes: The RNG sold by Seller and purchased by Buyer shall include all Environmental Attributes, excluding tax credits as set forth in Article 1, “Environmental Attributes”.

Additional Obligations:

RNG FUELING SERVICES (book-and-claim)

Regarding RNG Fueling Services, Seller Shall:

- provide a CI value for the RNG pathway(s) using a methodology approved by the California Air Resources Board ("CARB") under the Low Carbon Fuel Standard (LCFS) program. Proposers shall submit un-redacted bids of any pending or approved application(s) to generate LCFS or RIN credits, under the pathway or pathways proposed to supply FAX.
- Assume full responsibility for guaranteed delivery of required volumes of RNG at all times.
- aggregate and ensure submission of compliance forms for LCFS credit generation and RFS RIN separation, K3 RIN generation. File an annual fuel pathway report and submit injection records subject to verification.
- Hold and maintain independent contracts between their company and all relevant utility companies for the introduction of RNG by use of the utility's piping, connections, any and all infrastructure, dispenser equipment, valves, meters and natural gas gating to include inter-state fuel pipelines that may be used by the City.
- Notify FAX of any changes to the RNG characteristics that may affect CI value, pricing, or delivery.
- Provide daily monitoring of RNG usage, balancing, billing, and RNG information/consulting services.
- Maintain auditable documentation.
- Act as an advocate on relevant issues before the Public Utilities Commission.

DESCRIPTION OF WORK ACTIVITIES FOR LCFS AND RIN PROGRAM

Regarding LCFS and RIN Programs, Seller shall:

- Register (Opt-In) as the regulated party on behalf of FAX in the LRT-CBTS and EMTS/DCFUELS systems to facilitate the transfer of LCFS credits between LRT-CBTS accounts. Proposers must provide their organization name, address, state and country, Organization Federal Employer Identification Number (FEIN), date, place of incorporation (if applicable), TX’s name, business and mobile phone, and email per CARB guidelines. The proposer must acknowledge CARB's broker statement notifying TX’s that they are submitting to the jurisdiction of the California courts.
- Additionally, take all necessary steps to register with EPA Moderated Transaction System (EMTS) and Fuels Reporting System (DCFUELS) and comply with EPA

guidelines for administration by reporting fuel usage by FAX.

- Manage all regulatory requirements including filings to CARB and EPA submit all required quarterly and annual reports, and the information required therein, to CARB and the EPA per established deadlines as given by the respective regulatory agency in the online databases as of January 1, 2026.
- Correct any submitted reports and credit transfer errors as needed and provide justification for the report corrections. The proposer shall keep FAX informed of the status of correcting efforts and notify FAX once the issue is resolved and its results.
- Adhere to all CARB and EPA market rules when transacting credits. The proposer shall be knowledgeable and adhere to the respective rules for credit transactions set by each regulatory agency.
- Verify actual emissions data and provide records to regulatory agencies. The proposer carries the responsibility of actual verification to the regulatory agencies. **All recording and auditing requirements mandated by CARB and EPA.** Proposers must maintain all records and calculations relied upon for data reported in LRT-CBTS, EMTS, DCFUELS, or any other reporting database requirements as of January 1, 2026 or in the future for a 10-year period. These records include, but are not limited to:
    - Product transfer documents;
    - Copies of all data reports submitted to regulatory agencies;
    - Chain of custody evidence for produced fuel;
    - Records relating to fuel transactions;
    - Records used for each fuel transaction;
    - Attestation regarding environmental attributes associated with book-and-claim accounting for biomethane pursuant to applicable state and federal law and regulations
    - Records used for compliance or credit and deficit calculations
- The proposer will act as a representative for FAX during the course of the audit to satisfy or rectify any inquiries or findings from a regulatory agency. This may include travel to FAX at the proposer's expense. FAX will work collaboratively with the proposer to comply with the audit.
- Meet all compliance obligations promulgated under AB32, RFS program, or subsequent legislation at all times.
- Keep FAX informed of LCFS and RIN market conditions on a quarterly basis and provide quarterly reports that include a summary of credit transaction activity, average price FAX's credits were sold at, average market price during the same time frame, percentage of FAX's monetary share, total revenue FAX obtained during the quarter, and other relevant information as deemed appropriate by the proposer.
- Provide annual cumulative accounting of FAX's LCFS, RIN, and/or any other appropriate credit balance alongside with annual reports to regulatory agencies (31

March) and will summarize total transactions and their pricing against market averages for the previous year. Information will be presented in an easy to read format and will use charts and graphs as practicable.

- Provide the aggregated outcomes of the proposer's last three (3) years of credit sales, divided up quarterly with references to the average price per credit sold by proposer compared to the average price per credit as published by LRT-CBTS and EMTS and the number and volume of transactions the proposer accomplished during those quarterly periods.

LCFS CREDIT MANAGEMENT FOR ELECTRIC HEAVY-DUTY VEHICLE CHARGERS

Regarding credit management for Electric Heavy-Vehicle Chargers, Seller shall:

- be responsible for registering the EV charging infrastructure dedicated to FAX's electric buses with CARB and EPA.
- Adhere to all CARB and EPA market rules when transacting credits. Each regulatory agency has their respective rules for credit transactions, and it will be the proposer's responsibility to be knowledgeable and adhere to these rules.
- be responsible for managing the sale of LCFS and RIN credits generated from the EV charging operations, and ensuring FAX receives its share of the revenue.
- provide transparent quarterly and annual reports on the credit transactions, pricing, and revenue generated from the EV charging stations.
- act as a representative for FAX during the course of the audit to satisfy or rectify any inquiries or findings from a regulatory agency. This may include travel to FAX at the proposer's expense. FAX will work collaboratively with the proposer to comply with the audit.
- Meet all compliance obligations promulgated under AB32, RFS program, or subsequent legislation at all times.

LCFS AND RIN CREDIT MANAGEMENT FOR FUTURE HYDROGEN REFUELING INFRASTRUCTURE (HRI)

Regarding LCFS and RIN credit management for HRI, Seller shall:

- In the event that FAX constructs and operates a future hydrogen refueling dispensing station to fuel its hydrogen fleet and provide public access FAX shall provide the proposer with detailed information regarding the station.
- shall be responsible for registering the future hydrogen fuel cell station installed by FAX with CARB and EPA.
- Adhere to all CARB and EPA market rules when transacting credits. Each regulatory agency has their respective rules for credit transactions, and it will be the proposer's responsibility to be knowledgeable and adhere to these rules.
- be responsible for managing the sale of LCFS and RIN credits generated from the hydrogen fuel cell dispensing station, and ensuring FAX receives its share of the revenue.

- provide transparent quarterly and annual reports to FAX on the credit transactions, pricing, and revenue generated from the hydrogen fuel cell dispensing station.
- act as a representative for FAX during the course of the audit to satisfy or rectify any inquiries or findings from a regulatory agency. This may include travel to FAX at the proposer's expense. FAX will work collaboratively with the proposer to comply with the audit.
- Meet all compliance obligations promulgated under AB32, RFS program, or subsequent legislation at all times.

Special Conditions:

(a) Exclusivity: Seller has sole and exclusive right to deliver RNG and generate RINs and/or LCFS Credits on any CNG dispensed by Buyer at its relevant CNG stations during the Delivery Period at the Contract Price.

(b) Option Year(s): Buyer and Seller may mutually agree to extend the term of this Agreement beyond the Initial Contract Term for up to three additional one-year terms (the "Option Years"). Such mutual agreement to extend shall be confirmed in writing ninety (90) days prior to the expiration of the contract.

(c) Operation For the avoidance of doubt, any costs associated with the registration, operation or ongoing compliance of FAX stations, whether hydrogenEV or otherwise, shall be borne by Buyer.

(c) Force Majeure:

1. Except with regard to a party's obligation to make payment(s) due under this Agreement, neither party shall be liable to the other for failure to perform a Firm obligation, to the extent such failure was caused by Force Majeure. The term "Force Majeure" as employed herein means any cause not reasonably within the control of the party claiming suspension, as further defined in Section (c)2.

2. Force Majeure shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuation of the affected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption and/or curtailment of Firm transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars, or acts of terror; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a governmental authority having jurisdiction. Seller and Buyer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.

3. Neither party shall be entitled to the benefit of the provisions of Force Majeure to the extent performance is affected by any or all of the following circumstances: (i) the curtailment of interruptible or secondary Firm transportation unless primary, in-path, Firm transportation is also curtailed; (ii) the party claiming excuse failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; or (iii) economic hardship, to include, without limitation, Seller's ability to sell RNG at a higher or more advantageous price than the Contract Price, Buyer's ability to purchase RNG at a lower or more advantageous price than the Contract Price, or a regulatory agency disallowing, in whole or in part, the pass through of costs resulting from this Contract; (iv) the loss of Buyer's market(s) or Buyer's inability to use or resell RNG purchased hereunder, except, in either case, if the reason provided by the Buyer's downstream purchaser for such loss of Buyer's market(s) or Buyer's inability to use or resell RNG purchased hereunder constitutes Force Majeure as defined in this Section (c); or (v) the loss or failure of Seller's RNG supply or depletion of reserves, except, in either case, if the reason provided by the Seller's upstream seller for such loss or failure of Seller's RNG supply or depletion of reserves constitutes Force Majeure as defined in this Section (c).

4. Notwithstanding anything to the contrary herein, the parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be within the sole discretion of the party experiencing such disturbance.

5. The party whose performance is prevented by Force Majeure must provide notice to the other party. Initial notice may be given orally; however, written notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written notice of Force Majeure to the other party, the affected party will be relieved of its obligation, from the onset of the Force Majeure event, to make or accept delivery of RNG, as applicable, to the extent and for the duration of Force Majeure, and neither party shall be deemed to have failed in such obligations to the other during such occurrence or event.