

MASTER AGREEMENT FOR CHEMICAL SALES

This Master Agreement for Chemical Sales (“**Agreement**”) dated [DATE] (the “**Effective Date**”) is intended to facilitate sale of chemicals by CarbonFree Chemicals SPE I LLC (“**CarbonFree**”), a Delaware limited liability company whose SkyMine® Plant (the “**Plant**”) is located at 11503 Bulverde Road, San Antonio, Texas 78217 and [BUYER NAME] (“**Buyer**”), a [BUYER STATE OF ORGANIZATION] [ENTITY TYPE] having its principal place of business at [PARTY BUSINESS ADDRESS] (together, the “**Parties**,” and each, a “**Party**”).

1. Definitions. In addition to any definitions provided elsewhere in this Agreement, the following definitions will apply to this Agreement:

- 1.1. “**Carrier**” means any truck receiving Chemicals on behalf of, at the request of, or for the benefit of Buyer.
- 1.2. “**C&F**” has the meaning provided in Texas Business & Commerce Code § 2.320 on the Effective Date.
- 1.3. “**Chemicals**” means hydrochloric acid, sodium bicarbonate, sodium hydroxide or sodium hypochlorite as set forth in a Confirmation.
- 1.4. “**Confirmation**” means a document submitted by CarbonFree to Buyer setting forth the terms of a transaction for the sale of Chemicals including the Chemicals and the Quantity.
- 1.5. “**Contract**” means, for each sale of Chemicals, this Agreement and the Confirmation.
- 1.6. “**Delivery Date**” means the scheduled date(s) for the loading of Carrier(s) or Railcar(s).
- 1.7. “**FOB**” has the meaning provided in Texas Business & Commerce Code § 2.319 on the Effective Date.
- 1.8. “**Order**” means a request submitted by Buyer to CarbonFree to purchase Chemicals.
- 1.9. “**Price**” means the price(s) for the Chemicals as provided in Section 6 of this Agreement.
- 1.10. “**Quantity**” means the amount(s) of Chemicals as set forth in a Confirmation.
- 1.11. “**Railcar**” means any railcar receiving Chemicals on behalf of, at the request of, or for the benefit of Buyer
- 1.12. “**SDSs**” means Safety Data Sheets.
- 1.13. “**Specifications**” means CarbonFree’s standard specifications for Chemicals available at www.carbonfree.cc unless other specifications for Chemicals are identified for a transaction in the Confirmation.
- 1.14. “**Standards**” means CarbonFree’s established standards for quality testing and quantity measurement.

- 2. Transaction Procedure.** To purchase Chemicals from CarbonFree, Buyer will submit an Order to CarbonFree identifying the Chemicals, the Quantity, the Delivery Date. An Order may be submitted and modified in a telephone conversation, by email or by other electronic communications between the Parties. To accept an Order, CarbonFree will submit a Confirmation to Buyer. If a Confirmation is materially different from Buyer's understanding of the transaction terms, Buyer must object to the Confirmation by providing notice CarbonFree prior to the earlier of taking delivery of any Chemicals covered by the Confirmation or 5:00 PM Central Time on the Business Day following the date of the Confirmation. If Buyer does not timely object, and unless the differences are resolved prior to the loading at the Plant of any Chemicals covered by the Confirmation, the Confirmation will be binding on the Parties absent fraud or manifest error.
- 3. Terms and Conditions.** Any sale of Chemicals by CarbonFree to Buyer will be governed by the Contract. In the event of any conflict between the terms and conditions provided in this Agreement and the Confirmation, the Confirmation will control.
- 4. Quality.** Quality determinations will be based on the Chemicals in storage prior to loading by the Carrier. CarbonFree will provide a certificate of analysis for each delivery of Chemicals confirming the quality of the Chemicals sold. CarbonFree will conduct the testing for the certificate of analysis in accordance with the Standards. Provided that CarbonFree conducts the testing in accordance with the Standards, CarbonFree's certificate of analysis will be presumed correct absent fraud or manifest error.
- 5. Quantity.** CarbonFree will measure Chemicals sold by weight. CarbonFree will conduct measurements in accordance with the Standards. CarbonFree will provide a bill of lading for each delivery of Chemicals stating the measurement of the Chemicals sold. Provided that CarbonFree conducts the measurement in accordance with the Standards, CarbonFree's bill of lading will be presumed correct absent fraud or manifest error. Buyer acknowledges that any Quantity stated in a Confirmation is an approximation, and Buyer will be invoiced for the actual quantity loaded.
- 6. Price.**

 - 6.1. CarbonFree will provide Buyer with a price list containing the Price(s) at which CarbonFree will sell one or more Chemicals to Buyer. The price list will be Buyer-specific and confidential as provided in [Section 13](#) of this Agreement. CarbonFree may revise a price list at any time upon delivery of an updated price list to Buyer. A price list and any updated price list will be in writing and may be delivered to Buyer by email or any other reasonable means.
 - 6.2. Unless otherwise provided in the Confirmation, Buyer will purchase the Chemicals from CarbonFree at the Price provided in CarbonFree's price list for Buyer that is in effect on the Delivery Date. The Price is exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer will be responsible for all such charges, costs, and taxes; provided, that, Buyer will not be responsible for any taxes imposed on, or with respect to, CarbonFree's income, revenues, gross receipts, personnel, or real property, personal property, or other assets.
- 7. Invoicing and Payment.** Buyer will pay all invoiced amounts due to CarbonFree within thirty (30) days from the date of CarbonFree's invoice. Buyer will not withhold, offset, recoup or debit any amounts owed by Buyer under any invoice against any amount owed to Buyer by CarbonFree or its affiliates. Buyer will make all payments hereunder by wire transfer, ACH credit or check

and in immediately available US dollars. Buyer will pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer will reimburse CarbonFree for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees.

8. Delivery Terms, Title and Risk of Loss.

8.1. Carrier.

8.1.1. Unless the Confirmation provides for delivery to or by Railcar, CarbonFree will tender delivery of Chemicals FOB Carrier at the Plant, Buyer will be responsible for contracting with the Carrier for transportation at Buyer's cost and expense. CarbonFree may require any Carrier to execute an access agreement and to provide proof of insurance prior to taking delivery of Chemicals at the Plant. CarbonFree may deny access to the Plant to any Carrier who: fails or refuses to execute and comply with an access agreement; fails or refuses to obtain, maintain, and provide proof of insurance; or, in CarbonFree's reasonable opinion, poses a risk of injury or damage to the Plant, CarbonFree's personnel, the public or the environment. Buyer acknowledges that Carrier tanker trucks may come into contact with Chemicals incidental to loading, and CarbonFree is not responsible for any staining or other minor damage by Chemicals to tanker trucks incidental to loading.

8.1.2. Deliveries will be scheduled in accordance with the Plant's procedures. Buyer acknowledges that the Delivery Date for any Carrier is an estimate due to the reliance on Carriers, and CarbonFree will not be liable for any delivery delays. Buyer will be responsible for any demurrage or other costs incurred by Buyer arising from any delay in delivery.

8.2. Railcar.

8.2.1. If the Confirmation provides for delivery to Railcar at the Plant, CarbonFree will tender delivery of Chemicals FOB Railcar at the Plant, and Buyer will be responsible for supplying the Railcar and contracting with the railway for transportation of the Railcar at Buyer's cost and expense. Buyer acknowledges that Railcars may come into contact with Chemicals incidental to loading, and CarbonFree is not responsible for any staining or other minor damage by Chemicals to Railcars incidental to loading.

8.2.2. If the Confirmation provides for delivery by Railcar at a destination other than the Plant, CarbonFree will ship the Chemicals C&F to the destination, CarbonFree will be responsible for supplying the Railcar and contracting with the railway for transportation of the Railcar to the destination at CarbonFree's cost and expense. Buyer will be responsible for ensuring access to the destination upon arrival, promptly unloading the Chemicals from the Railcar at Buyer's cost and expense, and any demurrage or other costs and expenses incurred by CarbonFree arising from any delay in accessing the destination, unloading the Chemicals, and returning the Railcar to the railway for return transportation and movement. In addition, Buyer will be subject to a holding charge of \$50 per day per Railcar beginning 14 days after a Railcar arrives at the destination until it is returned to the railway. Seller may increase the holding charge upon notice to Buyer.

8.2.3. Railcar loading will be scheduled in accordance with the Plant's procedures. Buyer acknowledges that the Delivery Date for any Railcar is an estimate due to the reliance on the railway for the transportation and movement of Railcars, and CarbonFree will not be liable for any delivery delays. Buyer will be responsible for any demurrage and other costs incurred by Buyer arising from any delay in delivery.

9. Title and Risk of Loss. Title and risk of loss pass to Buyer when the Chemicals exit the Plant's loading apparatus and enter the Carrier or Railcar. As collateral security for the payment of the purchase price of the Chemicals, Buyer hereby grants to CarbonFree a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Chemicals, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including without limitation insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Texas Uniform Commercial Code.

10. Acceptance, Inspection and Rejection. Buyer will inspect the Chemicals upon delivery. Buyer will be deemed to have accepted the Chemicals upon delivery unless it promptly notifies CarbonFree in writing of any Nonconforming Chemicals and furnishes such written evidence or other documentation as reasonably required by CarbonFree. "Nonconforming Chemicals" means only that the Chemicals delivered are different than identified in the Confirmation. If Buyer notifies CarbonFree of any Nonconforming Chemicals, CarbonFree will, in its sole discretion, (i) replace such Nonconforming Chemicals with conforming Chemicals, or (ii) credit or refund the Price for such Nonconforming Chemicals. At CarbonFree's option, Buyer will ship the Nonconforming Chemicals to the Plant or dispose of the Nonconforming Chemicals in compliance with applicable laws and regulations, and CarbonFree will reimburse Buyer for reasonable and necessary costs of shipping or disposal. Buyer acknowledges and agrees that the remedies set forth in this Section are Buyer's exclusive remedies for the rejection of Chemicals. Except as provided under this Section, all sales of Chemicals to Buyer are made on a one-way basis and Buyer has no right to return Chemicals purchased under this Agreement to CarbonFree.

11. Warranties. CarbonFree warrants to Buyer that: all Chemicals delivered by CarbonFree will conform to the Specifications; and CarbonFree will transfer to Buyer good and merchantable title to all Chemicals delivered. **EXCEPT FOR THE WARRANTIES SET FORTH IN THIS SECTION: ALL CHEMICALS ARE SOLD "AS IS" AND "WITH ALL FAULTS;" AND CARBONFREE MAKES NO WARRANTY WITH RESPECT TO THE CHEMICALS (INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**

12. Compliance with Law. Each party will comply with all applicable laws, regulations, and ordinances. Each party maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under any Confirmation.

13. Hazard Communication. Buyer acknowledges that Seller has made available SDSs for all Chemicals on CarbonFree's website at www.carbonfree.cc. Buyer acknowledges that it is familiar with the Chemicals and is sophisticated and knowledgeable of the hazards and risks associated with the Chemicals. Buyer will: comply with all appropriate safe handling and use procedures and all safety and health-related governmental requirements concerning the Chemicals; and will take such steps as necessary to inform its employees, agents, contractors, customers and other

third parties of proper use, storage, and disposal of the Chemicals, including, without limitation, by disseminating pertinent information contained in the SDSs.

14. Confidentiality. All non-public, confidential or proprietary information of CarbonFree, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, price lists, pricing, discounts or rebates, disclosed by CarbonFree to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized by CarbonFree in writing. Upon CarbonFree's request, Buyer will promptly return all documents and other materials received from CarbonFree. CarbonFree will be entitled to injunctive relief for any violation of this Section. This Section will not apply to information that is: in the public domain; known to the Buyer at the time of disclosure; or rightfully obtained by the Buyer on a non-confidential basis from a third party.

15. Force Majeure. Neither Party will be liable or responsible to the other Party, or be deemed to have defaulted under or breached any Contract, for any failure or delay in fulfilling or performing any term of any Contract (except for any obligations of the Buyer to make payments to CarbonFree), when and to the extent such failure or delay is caused by or results from acts beyond the reasonable control of the impacted Party ("**Impacted Party**"), including, without limitation, the following force majeure events ("**Force Majeure Event(s)**"): acts of God; flood, fire, earthquake, epidemic, or explosion; war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; government order, law, or actions; embargoes or blockades; and national or regional emergency. The Impacted Party will give notice of the Force Majeure Events to the other Party.

16. Indemnification. BUYER WILL INDEMNIFY, DEFEND AND HOLD HARMLESS CARBONFREE AND ITS MEMBERS, OFFICERS, EMPLOYEES, AGENTS, AFFILIATES, SUCCESSORS AND PERMITTED ASSIGNS (COLLECTIVELY, "INDEMNIFIED PARTY") AGAINST ANY AND ALL LOSSES, DAMAGES, LIABILITIES, DEFICIENCIES, CLAIMS, ACTIONS, JUDGMENTS, SETTLEMENTS, INTEREST, AWARDS, PENALTIES, FINES, COSTS, OR EXPENSES OF WHATEVER KIND, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES, RELATING TO, ARISING OUT OF OR RESULTING FROM: THE CHEMICALS PURCHASED BY BUYER FROM CARBONFREE AFTER DELIVERY OF THE CHEMICALS TO BUYER (INCLUDING, WITHOUT LIMITATION, RECEIPT, POSSESSION, CONTROL OVER, USE, HANDLING, STORAGE, PROCESSING, DISPOSAL, RESALE, OR TRANSPORTATION OF THE CHEMICALS); OR BUYER'S NEGLIGENCE, WILLFUL MISCONDUCT OR BREACH OF THIS AGREEMENT. BUYER SHALL HAVE NO SUCH OBLIGATIONS FOR ANY CLAIMS TO THE EXTENT PROVEN TO HAVE DIRECTLY RESULTED FROM THE NEGLIGENCE OR WILFUL MISCONDUCT OF AN INDEMNIFIED PARTY.

17. Limitation of Liability. IN NO EVENT WILL CARBONFREE BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF, OR RELATING TO, OR IN CONNECTION WITH ANY BREACH OF ANY CONTRACT, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE, WHETHER OR NOT CARBONFREE WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, OR THE FAILURE OF ANY AGREED OR OTHER REMEDY. IN NO EVENT WILL

CARBONFREE'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO ANY CONTRACT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO CARBONFREE FOR THE CHEMICALS SOLD UNDER THE CONTRACT.

18. Insurance. Buyer will, at its own expense, obtain and maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability in an amount no less than \$1,000,000 (including but not limited to coverage for premises/operations, products/completed operations, blanket contractual liability, broad form property damage, independent contractors, personal injury, and sudden and accidental pollution), commercial auto liability in an amount no less than \$1,000,000 (including coverage for owned, non-owned, and hired vehicles and mobile equipment) with financially sound and reputable insurers. Upon CarbonFree's request, Buyer will provide CarbonFree with a certificate of insurance from Buyer's insurer evidencing the insurance coverage specified in this Agreement. Buyer will provide CarbonFree with thirty days' advance written notice in the event of a cancellation or material change in Buyer's insurance policy. Buyer will name CarbonFree as an additional insured. Except where prohibited by law, Buyer will require its insurer to waive all rights of subrogation against CarbonFree's insurers and CarbonFree.

19. Miscellaneous.

19.1. Entire Agreement. The Contract constitutes the sole and entire agreement of the Parties with respect to the subject matter contained therein and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding such subject matter.

19.2. Severability. If any term or provision of a Contract is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of the Contract or invalidate or render unenforceable such term or provision in any other jurisdiction

19.3. Amendments. No amendment to or modification of a Contract is effective unless it is in writing and signed by each Party.

19.4. Waiver. No waiver by any party of any of the provisions of a Contract shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in a Contract, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from the Contract shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

19.5. Assignment. Buyer shall not assign, transfer, delegate or subcontract any of its rights or obligations under any Contract without the prior written consent of CarbonFree. Any purported assignment, transfer, delegation, or subcontract in violation of this Section shall be void. No assignment, transfer, delegation, or subcontract shall relieve Buyer of any of its obligations hereunder. CarbonFree may at any time assign, transfer, delegate, or subcontract any or all of its rights or obligations under a Contract without Buyer's prior written consent.

19.6. **Choice of Law and Forum.** Each Contract is governed by, and construed in accordance with, the laws of the State of Texas, without regard to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Texas. Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against the other Party in any way arising from or relating to any Contract in any forum other than the courts of the State of Texas sitting in Bexar County, and any appellate court from any thereof. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts.

19.7. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart's signature page of this Agreement by electronic mail in portable document format (.pdf) or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document has the same effect as delivery of an executed original of this Agreement.

CarbonFree Chemicals Holdings SPE I LLC

[BUYER]

By: _____

By: _____

Name: Geoff Spahr

Name: _____

Title: Director, Sales & Marketing

Title: _____