

CONFIDENTIAL NON-BINDING TERM SHEET
HYDROGEN OFFTAKE

This Non-Binding Term Sheet (“Term Sheet”), dated as of May 16, 2024 (the “Effective Date”) summarizes the principal terms with respect to a prospective business relationship by and between City of Lancaster, CA a municipal corporation and charter city with offices located at 44933 Fern Avenue, Lancaster, CA 93534, and any of its designated Affiliates (“Buyer”), and Element Resources, Inc., a Delaware corporation with offices located at One Shell Plaza, 910 Louisiana St., Suite 5030, Houston, TX 77002 and any of its designated Affiliates (“Element Resources” or “Seller”). Seller and Buyer are sometimes referred to individually as a “Party” and together referred to as the “Parties”. “Affiliates” means any entity that directly or indirectly controls, is controlled by, or is under common control with a Party to this Term Sheet. “Control” means the direct or indirect ownership or control of at least fifty percent (50%) of the voting rights (or their equivalent) of an entity or the rights to exercise management control.

This Term Sheet, unless explicitly set forth herein, is intended solely as a basis for discussion, a pathway to definitive agreements and will not be construed as a commitment to enter any transaction or investment whatsoever by either Party, and, except for the provisions set forth in Part B, below (which are intended to be legally binding upon the Parties), no such legally binding obligations on the Parties of any kind will be created, implied or inferred until appropriate definitive written agreements in final form regarding the subject matter of this Term Sheet and containing all other essential terms of an agreed-upon transaction have been approved by the Parties (after all necessary senior management, credit, regulatory, financial, technical and legal review) and all such definitive documents are executed by all Parties.

The basis of this NON-Binding Term Sheet is to develop a mutually agreeable HPA (defined below), resolve the outstanding matters and collaboratively pursue the transaction contemplated herein and the greater hydrogen economy.

The Parties are discussing a business relationship based on the following terms:

Part A – Non-Binding Terms:

Business Relationship	Seller is currently developing a green hydrogen production facility to be located in Lancaster, CA (the “ <u>Facility</u> ”). Buyer is a California municipal corporation and charter city. Seller desires to sell, and Buyer desires to buy the green hydrogen to be produced at the Facility.
Scope	The Parties intend to enter into a definitive agreement for the sale and purchase of hydrogen (the “ <u>Hydrogen Purchase Agreement</u> ” or “ <u>HPA</u> ”) pursuant to which Seller

	will supply and sell and Buyer will purchase and receive hydrogen produced by the Facility.
HPA Term	The HPA will have an initial term of ten (10) years from the commercial operations date (“ <u>COD</u> ”) of the Facility (the “ <u>Initial Term</u> ”). Buyer may renew the HPA for two (2) successive five (5) year terms, (each a “ <u>Renewal Term</u> ”) by providing written notice to Seller not less than twelve (12) Contract Months prior to the expiration of the Initial Term or the first Renewal Term, as applicable. The Initial Term and any Renewal Term, the “ <u>Term</u> ”.
Conditions Precedent to Effectiveness of HPA	Satisfaction of each of the below is a Condition Precedent to the effectiveness of the HPA: <ol style="list-style-type: none"> 1. Seller has entered into and issued full notice to proceed under the Construction Contracts; 2. Seller has obtained all permits required by applicable law to commence construction of the Facility; 3. Seller has taken a positive final investment decision to construct the Facility; and 4. Buyer and seller have executed Mutually agreed definitive Hydrogen Purchase Agreement(s) (HPA).
Product and Product Specifications	“ <u>Product</u> ” means liquid or gaseous hydrogen meeting the specifications set forth in SAE J2719 standards and the CI Baseline (“ <u>Specifications</u> ”). Buyer will have no obligation to accept any Product that fails to conform to the Specifications at the Delivery Point.
Carbon Intensity (CI) Baseline	Carbon Intensity (“ <u>CI</u> ”) is the quantity of life cycle greenhouse gas emission per unit of fuel energy, expressed in grams of carbon dioxide equivalent per megajoule (gCO ₂ /MJ), in accordance with the regulations and rules of applicable governmental authorities, including the California Air Resources Board (“ <u>CARB</u> ”). The baseline of CI for the Product supplied under the HPA is _48CO ₂ /MJ (“ <u>CI Baseline</u> ”). The Parties agree to work together to reduce the CI of the Product produced to achieve further reductions, where applicable, (1) to comply with local and federal regulations; and (2) to maximize the value of Upstream and/ or Downstream Incentives.
Delivery Point / Logistics Schedule	“ <u>Delivery Point</u> ” means the specific downstream flange and measurement location at the Facility where the Product passes from the outlet flange of Seller’s hydrogen production facility and delivered to Buyer, or other facilities or equipment as may be mutually agreed by the Parties.

	<p>Buyer will provide Seller with a logistics schedule to ensure timely acceptance of delivery of Product in a manner to prevent any shut-ins of the Facility due to lack of storage capacity.</p>
Contract Quantity	<p>Buyer will purchase an average annual 22,000 kilograms per day of Product ("<u>Initial Contract Quantity</u>"), starting with 2026, averaged on a monthly basis.</p>
Delivery & Other Services	<p>Seller may contract separate from the HPA Buyer, to provide delivery to the Buyer's location(s), Seller can provide delivery via Zero Emission's transportation, If the Buyer and Seller agree that the Seller will provide hydrogen delivery, they must execute a separate Hydrogen Delivery Agreement (HDA) to outline the specific terms and conditions of this service. For the purposes of this agreement, 'Zero Emission's transportation' refers to transportation methods that do not emit any pollutants or greenhouse gases during operation, including but not limited to electric vehicles and hydrogen fuel cell vehicles.</p> <p>Buyer may request Seller to provide Storage at Seller's site, in this case Buyer and Seller shall enter into a Hydrogen Storage Agreement (HSA).</p> <p>Seller may provide storage at Buyers Site via tank trailers or Transportable ISO Totes, if agreed between Buyer and Seller, a Hydrogen Logistics Agreement (HLA) shall be executed between the Parties, this service may also include if agreed, liquid hydrogen vaporization and local compression.</p>
Nomination Procedure	<p>Five (5) Business Days before the first day of each Contract Month, Buyer will submit to Seller written notice of its binding nomination (a "<u>Nomination</u>") of the amount of Product that Buyer will purchase and take each day of the next Contract Month. Buyer's Nomination will be a uniform amount for each day and will not be less than ninety percent (90%) or greater than one hundred ten percent (110%) of the Contract Quantity ("<u>Nomination Amount</u>"), except to take account of any scheduled downtime properly notified by Seller to Buyer for such Contract Month. The aggregate Nomination Amount for any Contract Month is the "<u>Monthly Nomination Amount</u>". The specific percentages and conditions of the Contract Quantity and/or Nomination Amount will be subject to further negotiation and will be finalized in the binding Hydrogen Purchase Agreement.</p> <p>From time to time and with adequate notice, Buyer may request that Seller provide additional Product in excess of the Nomination Amount. If such additional Product is available, Seller will deliver the requested additional Product to Buyer at the Product Price.</p> <p>"<u>Contract Month</u>" refers to a full calendar month, beginning on the first day and ending on the last day of that month; provided, however, that the first Contract Month shall commence on the COD and end on the last day of the Contract Month in which</p>

	<p>the COD occurs and the last Contract Month shall commence on the first day of the last Contract Month of the Term and end on the last day of the Term.</p>
<p>Purchase and Sale Obligations</p>	<p>The intent of the HPA is that Each of Seller's obligation to sell and deliver and Buyer's obligation to purchase and receive is Firm. However, these terms will be subject to negotiation and only become binding upon execution of the definitive HPA. "Firm" means that either Party may interrupt its performance without liability only to the extent that such performance is (a) excused by the failure to perform by the other Party or (b) prevented due to a Force Majeure event.</p> <p>The remedy for any unexcused failure by Seller to sell and deliver or by Buyer to purchase and receive will be through payment of cover damages as detailed in the HPA. The remedy for any unexcused failure by Seller to sell and deliver or by Buyer to purchase and receive will be through payment of cover damages. The method of calculating these cover damages will be detailed in the definitive Hydrogen Purchase Agreement (HPA), once it is negotiated and finalized.</p> <p>The basis of this NON-Binding Term Sheet is to develop a mutually agreeable HPA, identify and resolve outstanding matters through further negotiation, and collaboratively pursue the Transaction and the greater hydrogen economy.</p>
<p>Product Price</p>	<p>The price of liquefied hydrogen sold by Seller and purchased by Buyer hereunder will be \$8.50 per kilogram ("<u>Base Liquefied Price</u>"). The price of gaseous hydrogen sold by Seller and purchased by Buyer hereunder will be \$6.75 per kilogram at 350 BAR ("<u>Base Gaseous Price</u>").</p> <p>Both prices will be subject to an annual adjustment based upon the Consumer Price Index (CPI) or another relevant Federal price inflation index agreed upon by the parties."</p>
<p>Seller Facility Downtime</p> <p>Seller Facility Downtime</p>	<p>The Facility will have an allowance for maintenance downtime in accordance with industry practices and equipment vendor recommendations. Ninety (90) days prior to the start of each Contract Year, Seller will provide Buyer with written notice of downtime scheduled for the following Contract Year, including downtime necessary for extended planned maintenance events.</p> <p>Five (5) days prior to the start of each calendar quarter, Seller will provide Buyer with written notice of the maintenance downtime scheduled for the following quarter, including the timing of such scheduled downtime, any scheduled downtime that is anticipated to exceed twenty-four (24) hours, and the quantity of Product affected by such scheduled downtime.</p> <p>Seller agrees to have adequate Product available for Buyer in storage at the Facility to cover a period of forty-eight (48) consecutive hours of unscheduled downtime.</p>

Upstream Incentives	Seller will retain all rights in respect of Upstream Incentives associated with hydrogen production available based on the envisaged CI Baseline of the Product. <u>“Upstream Incentives”</u> means all Incentives recognized by Seller that arise from the production of hydrogen at the Facility (or other activities of Seller in respect of Product prior to delivery to Buyer).
Downstream Incentives	Buyer will retain and monetize Downstream Incentives. <u>“Downstream Incentives”</u> means any and all Incentives associated with the Product that do not arise out of the production of hydrogen and that accrue following production and delivery of Product to Buyer.
General Terms regarding Incentives	<p><u>“Incentives”</u> means any applicable tax benefits or other financial incentives, whether federal, state or other, resulting from construction, ownership, operation, maintenance or other use relating in any way to Hydrogen in connection with the Facility, including but not limited to (a) Environmental Attributes, (b) any Tax Credits, associated with the Facility, (c) state, federal or private grants or other benefits related to the Facility, (d) renewable energy generated for the Facility, (e) accelerated depreciation benefits related to the Facility’s status as a low carbon intensity fuel supply infrastructure, (f) LCFS credits, (g) Renewable Identification Number credits, and (h) similar tax credits, grants or associated funding or loans.</p> <p><u>“Environmental Attributes”</u> means any and all environmental benefit, emissions, attributes, reductions or other environmental credits, carbon credits or certificate credits, allotments, or other right, title and interest associated with fuel, low carbon fuel and/or greenhouse gases and any other criteria pollutant reductions or benefits, including any environmental reporting and/or marketing rights, related to the production, use, sale or consumption of hydrogen.</p> <p><u>“Tax Credits”</u> means, collectively, any federal, state or other tax incentive, including but not limited to the Carbon Oxide Tax Credit, Investment Tax Credit or Purchase Tax Credit which are considered Upstream Incentives.</p> <p><u>“LCFS”</u> means a low carbon fuel standard program and any associated credits or benefits under applicable Laws and generated pursuant to applicable Laws, and shall be considered Downstream Incentives.</p> <p>Other Downstream Incentives – Shall be for the Buyer exclusively.</p> <p>Each Party will be responsible for its portion of any transaction and execution costs related to the monetization of any Upstream or Downstream Incentives. The Parties agree to cooperate in the review and pursuit of any Incentives that may become available during the Term.</p>

Part B – Binding Terms:

Confidentiality	The parties acknowledge and agree that to the extent permitted by law (including, but not limited to, the Ralph M. Brown Act and California Public Records Act) this Term Sheet and the terms set out herein, the fact that discussions are being held between the Parties as well as all information and documents related to the HPA will be deemed Confidential Information for purposes of the Confidentiality Agreement entered into by the Parties dated 05 24, 2024. Seller acknowledges that this Term Sheet will be appended to a publicly posted agenda of the Lancaster City Council.
Effective Period; Termination	This Term Sheet will remain in effect until the date of execution and delivery of definitive agreements. Notwithstanding anything to the contrary herein, the provisions in this Part B entitled "Confidentiality" will survive the termination or expiration of this Term Sheet for a period of three (3) years.
Expenses	Each Party will bear its own legal, accounting, consulting, regulatory, tax and other professional fees and expenses and other transaction costs, regardless of whether a transaction is consummated.
Compliance	Any future definitive agreements will contain appropriate anti-corruption, anti-terrorism, economic sanctions, anti-money laundering and other related representations, warranties and covenants.
Governing Law / Jurisdiction	The provisions of this Term Sheet, and this Part B specifically, will be governed and construed in accordance with the laws of the State of California. The Parties consent and agree that the courts sitting in Los Angeles County, California will have exclusive jurisdiction over any dispute, controversy, or claim between the Parties hereto arising out of or relating to this Term Sheet.
Successors and Assignments	Any rights or obligations arising out of this Part B may not be assigned or delegated by Seller or Buyer without the other Party's prior written consent. Any such rights and obligations will be binding upon any successor (whether by operation of law or otherwise) or approved assignee of Seller or Buyer, respectively. Notwithstanding the preceding, each Party is entitled to freely assign the rights and obligations contemplated under this Term Sheet to an Affiliate.

This Term Sheet may be executed in one or more counterparts, each of which will be deemed an original and all of which will be deemed one and the same Term Sheet. The Parties acknowledge and

agree that any document or signature delivered by facsimile, PDF or other electronic transmission will be deemed to be an original executed document for the purposes hereof and such execution and delivery will be considered valid, binding (as to Part B only) and effective for all purposes.

Signature Page Follows

IN WITNESS WHEREOF, the undersigned have executed this Term Sheet as of the Effective Date.

City of Lancaster

By: _____

Name: _____

Title: _____

Element Resources Inc.

By: _____

Name: _____

Title: _____