

PSA TERMS AND CONDITIONS

CARBON CREDITS & EMISSION REDUCTIONS

These PSA Terms and Conditions are incorporated by reference into the Confirmation and set forth certain legal terms and conditions applicable to the Seller and Buyer named in the Confirmation with respect to the sale and purchase of the Product identified in the Confirmation. Capitalized terms used in these PSA Terms and Conditions and defined in the Confirmation shall have the meanings set forth in the Confirmation.

In the event of any inconsistency between the Special Conditions set forth in the Confirmation and the Terms and Conditions: (a) the Special Conditions shall prevail over any specifically identified provisions of the Terms and Conditions (i.e., only those provisions of the Terms and Conditions that are identified by section number in the Special Conditions), and (b) in all other cases, the Terms and Conditions shall prevail.

Seller and Buyer hereby agree as follows:

1. Definitions. The following terms shall have the meaning ascribed to them as set forth below.

“Account” means any digital record of a Party or person in the Applicable Registry that will be used to record (as applicable) the issue, holding, retirement, acquisition, surrender, cancellation, and replacement of a Product.

“Affected Party” shall have the meaning set forth in Section 12.

“Affiliate” means, with respect to any Person, any other Person which directly or indirectly, through one or more intermediaries, Controls, or is Controlled by, or is under common Control with, such Person.

“American Carbon Registry” means the protocols, standards and registry located on Homepage - ACR (acrcarbon.org).

“AML Legislation” means, with respect to any Person, any applicable law, judgment, order, executive order, decree, ordinance, rule or regulation of any Governmental Authority related to anti-money laundering, anti-terrorist financing, Sanctions and “know your client” laws binding on or affecting such Person or its property or operations including (i) the U.S. Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department and any other enabling legislation or executive order relating thereto, (ii) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (United States), as amended; (iii) the United States Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001; and (iv) the Bank Secrecy Act (United States), as amended.

“Anti-Corruption Laws” means, with respect to any Person, any law, judgment, order, executive order, decree, ordinance, rule or regulation of any Governmental Authority related to bribery or corruption binding on or affecting such Person or its property or operations including (i) the United States Foreign Corrupt Practices Act of 1977, as amended; (ii) the OECD Convention of December 17, 1997 with respect to measures against corruption of foreign public officials (the “OECD Convention”) and any OECD Guidelines or Action Statements with respect thereto; and (iii) any other applicable national and international laws enacted to implement the OECD Convention.

“Applicable Law” means any international, federal, state, provincial, local or municipal law, regulation, code, order or other requirement or rule of law or the rules, policies, Orders, regulations, judgments,

rulings, decrees, injunctions, authorizations, approvals, consents, concessions, exemptions, licenses, leases, grants, permits, franchises, rights, privileges or no-action letters, or other directions or requirements of any Governmental Authority or stock exchange, including any judicial or administrative interpretation thereof and any international treaty obligation of any Governmental Authority, applicable to a Person or any of its properties, assets, business, or operations, including, but not limited to, any Applicable Standard.

“Applicable Registry” shall have the meaning set forth in the Confirmation.

“Applicable Standard” means either (a) a set of standards, definitions, laws, rules, or Methodologies of an Applicable Standards Body with respect to which Carbon Credits of a particular Project are Verified and Project Validations are performed, or (b) a set of Science Based Targets’ Criteria with respect to which Emission Reductions are measured; as such set may be amended, modified, or replaced from time to time by the Applicable Standards Body.

“Applicable Standards Body” means a Person that is the governing body making final and binding determinations or measurements under an Applicable Standard.

“Authorization” means any authorization, approval, consent, concession, exemption, license, lease, grant, permit, franchise, right, privilege or no-action letter from any Governmental Authority having jurisdiction with respect to any specified person, property, transaction or event, or with respect to any of such person’s property or business and affairs (including any zoning approval, development permit or building permit) or from any Person in connection with any easements, contractual rights or other matters.

“Business Day” means a day on which Federal Reserve member banks are open for business.

“Buyer” is the Party as identified in the Confirmation.

“Carbon Credits” means all right, title, and interest in, and benefits associated with, any and all voluntary or compliance-eligible carbon dioxide Emission Reductions and any emission reduction, removal, allowance, credit, permit, offset, claim, characteristics, attribute, verified emission reduction, removal unit, howsoever entitled or designated, resulting from, attributable to or associated with the Project, including the right to sell, trade, or retire such credits, which Carbon Credit shall be Verified (or otherwise confirmed as required by the applicable standard (if any)) and measured in units of one tonne of carbon dioxide equivalent (CO₂e) using the global warming potentials stipulated by the Applicable Standard Body or the Intergovernmental Panel on Climate Change, as applicable and as may be evidenced by a serialized registration or certificate number; and shall include the reporting rights and benefits related to any such units including the right of a Person to report the ownership thereof in compliance with Applicable Law, if applicable, or otherwise to an international, federal or sub-national agency or any other Person, including under any present or future emissions trading program, a voluntary carbon market program, the UNFCCC, or the Paris Agreement.

“Climate Action Reserve” means the protocols, standards and registry found on <https://www.climateactionreserve.org/>.

“Confidential Information” means:

(a) All information provided by one Party to another Party in accordance with this Agreement, including but not limited to:

(i) information concerning the business and affairs of a Party and its Affiliates and customers, any analysis, information, pricing, or other information related to any Product, or transactions, any

Account information, and

- (ii) any information to which Buyer, Seller, or any Third Party (to the extent such Third Party owes a duty of confidence to Buyer or Seller) has rights,
- (b) Which information is either (1) marked to expressly indicate its confidential, restricted, or proprietary nature by the Party having rights in the same, or (2) under the circumstances surrounding disclosure of the information by a Party, should reasonably be treated as confidential by the Party receiving such information.
- (c) Notwithstanding anything to the contrary, Confidential Information shall not include information:
 - (i) That consists of any Buyer information provided in the Confirmation, except to the extent of information in such documentation which is clearly marked as Confidential and Proprietary;
 - (ii) That is, as of the time of its disclosure or thereafter becomes part of the public domain through a source other than the receiving Party;
 - (ii) That was known to the receiving Party without obligation of confidentiality as of the time of its receipt from the disclosing Party;
 - (iv) That is independently developed by the receiving Party without reference to or use of the Confidential Information of the disclosing Party;
 - (v) That subsequent to its disclosure is received by the receiving Party from a Third Party not, to the receiving Party's knowledge after due inquiry, subject to an obligation of confidentiality with respect to the information disclosed; or
 - (vi) With respect to which the disclosing Party provides to the receiving Party under an express waiver of any confidentiality protection under this Agreement.

"Confirmation" shall mean the document signed by both Parties setting forth the commercial terms.

"Control" means, in respect of a particular Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, the composition of the board of directors or managers of such Person, by contract or otherwise. Also, **"Controlled"** and **"Controls"**.

"Currency" means United States Dollars unless otherwise specifically stated in the Confirmation.

"Delivery" means the physical transfer of possession and title to Product(s) from Seller to Buyer, including any accompanying documentation. Also, **"Delivered"** or **"Deliver"**.

"Delivery Date(s)" shall have the meaning given to it in the Confirmation.

"Effective Date" shall have the meaning given to it in the Confirmation.

"Emission Reductions" or **"ER"** means all existing and future legal and beneficial rights arising from the physical removal, limitation, reduction, avoidance, mitigation of emissions, or sequestration of greenhouse gases (GHG Reductions and GHG removal enhancements) created by the Project, measured in increments of one metric ton of carbon dioxide equivalent, including any right, interest, credit, entitlement, benefit, allowance, certificate or registrable right arising from or in connection with that reduction or sequestration.

"Force Majeure" means an event or circumstance which materially adversely affects the ability of a Party (**"Claiming Party"**) to perform its obligations under this Agreement, which event or circumstance was not reasonably anticipated as of the Transaction Date and which is not within the reasonable control of, or the

result of the negligence of, the Claiming Party, and which the Claiming Party is unable to overcome or avoid or cause to be avoided by the exercise of reasonable care such as acts of God; fire; explosion; lightening; maritime peril; collisions; storms; landslides; flood; earthquake; other acts of nature; war; riots or disorders; embargos; blockades; epidemiological events (including, the global pandemic associated with the outbreak of the disease designated as COVID-19 as declared by the World Health Organization on March 11, 2020, and any mutations thereof, and the actions of any Governmental Authority directly related thereto; civil unrest; sabotage; terrorism; strikes; lockouts; or other labor difficulties that affects one or both Parties; the failure of the entity responsible for the verification of the approved project to Verify the Product of the approved project; or the suspension, failure or malfunction of the Applicable Registry which prevents the issuance, transfer or retirement of the Product. Also, in respect to the Seller, Force Majeure may include the inability to procure the necessary Product from its supplier. Force Majeure may not be based on (a) the loss or failure of Buyer's markets; (b) Buyer's inability economically to use or resell the Product; (c) Seller's ability to sell the Product to another party on terms superior to Seller's terms herein; or (d) Buyer's ability to purchase similar Product from another party on terms superior to the Buyer's terms herein. With respect to a Party's obligation to make payments hereunder, Force Majeure will be only an event or act of a Governmental Authority that on any day disables the banking system through which a Party makes such payments. Reversal is not a Force Majeure event.

"GHG" means greenhouse gases listed in Annex A to the Kyoto Protocol to the United Nations Framework Convention on Climate Change.

"GHG Reduction" means the removal, limitation, reduction, avoidance, sequestration, or mitigation of emissions of any of the greenhouse gases listed in Annex A to the Kyoto Protocol to the United Nations Framework Convention on Climate Change.

"Gold Standard" means the Gold Standard or Gold Standard for the Global Goals, published and administered by the Gold Standard Foundation, a nonprofit corporation headquartered in Geneva, Switzerland.

"Governmental Authority(ies)" means any domestic or foreign federal, provincial, regional, state, municipal or other government, governmental department, agency, authority or body (whether administrative, legislative, executive or otherwise), court, tribunal, commission or commissioner, bureau, minister or ministry, board or agency, or other regulatory authority, including any securities regulatory authorities or stock exchange.

"Indemnified Parties" shall have the meaning set forth in [Section 5](#).

"Indemnifying Party" shall have the meaning set forth in [Section 5](#).

"Insolvency Event" means, in respect of any Person, any one or more of the following events or circumstances whereby such Person (a) becomes insolvent or generally does not or becomes unable to pay its debts or meet its liabilities as the same become due; (b) admits in writing its inability to pay its debts generally or declares any general moratorium on its indebtedness or proposes a compromise or arrangement between it and any class of its creditors or makes a general assignment for the benefit of creditors; (c) institutes or has instituted against it any proceeding seeking (i) to adjudicate it a bankrupt or insolvent, (ii) liquidation, dissolution, winding-up, administration, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief, stay of proceedings of creditors generally (or any class of creditors), or composition of it or its debts or any other relief under any Insolvency Law, or (iii) the entry of an order for relief or the appointment of or the taking of possession by, a receiver, receiver-manager, administrator, custodian, monitor, trustee or other similar official for the Person or any substantial part of its respective property and, in the case of any such proceeding instituted against it (but

not instituted by it) either such petition, application or proceeding continues undismissed, or unstayed and in effect, for a period of forty-five (45) days after the institution thereof, such Person fails to diligently and actively oppose such proceeding, or any of the actions sought in such proceeding (including the entry of an order for relief against it or the appointment of a receiver, receiver-manager, administrator, custodian, monitor, trustee or other similar official for it or for any substantial part of its properties and assets) occurs, or such Person files an answer admitting the material allegations of a petition or motion filed against it in any such proceeding; or (d) takes any action, corporate or otherwise, to approve, effect, consent to or authorize any of the actions described in the foregoing paragraphs (a) through (c) or otherwise acts in furtherance thereof or fails to act in a timely and appropriate manner in defense thereof.

“Insolvency Law” means any bankruptcy, insolvency, reorganization, liquidation, administration, conservatorship, assignment for the benefit of creditors, moratorium, rearrangement, arrangement, winding up, receivership or other debtor relief law of an applicable jurisdiction from time to time in effect and affecting the rights of creditors generally including any proceeding under applicable corporate law seeking a compromise or arrangement of any debts of the corporation, or a stay of proceedings to enforce any of the claims of the corporation’s creditors.

“Intergovernmental Panel on Climate Change” or **“IPCC”** is the United Nations body for assessing the science on climate change.

“Intellectual Property Rights” means all rights in any patent, copyright, database rights, registered design or other design right, utility model, trade mark (whether registered or not and including any rights in get up or trade dress), brand name, service mark, trade name, eligible layout right, chip topography right and any other rights of a proprietary nature in or to the results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields, whether registrable or not and wherever existing in the world, including all renewals, extensions and revivals of, and all rights to apply for, any of the foregoing rights owned, used, or intended to be used, by a Party whether or not registered, registrable or patentable.

“Interest Rate” means the then effective Prime Rate of interest published under “Money Rates” by the Wall Street Journal or such other rate as set forth in the Confirmation.

“Losses” shall have the meaning given in Section 5(a).

“Material Adverse Effect” means any event, occurrence, change or effect that, when taken individually or together with all other events, occurrences, changes or effects materially limits, restricts or impairs or is reasonably likely to materially limit, restrict or impair the ability of:

- (a) Buyer to perform its obligations under any of this Agreement,
- (b) Seller to obtain the Product, or
- (d) Seller to exercise its rights or remedies under or pursuant to any of this Agreement.

“Methodology” means the process, under an Applicable Standard, to assess the quality of the Product produced or generated by a Project against different quality objectives and criteria, and which process will indicate the confidence or likelihood that the Product meet each criterion or quality objective.

“OFAC” means the U.S. Office of Foreign Asset Control.

“Notice” shall have the meaning set forth in Section 13.

“Paris Agreement” means the Paris Agreement (December 13, 2015), made under the UNFCCC, Report of

the Conference of the Parties (Addendum) Decision 1/CP.21, FCCC/CP/2015/10/Add.1 (January 29, 2016).

“Payment Terms” shall have the meaning given to it in the Confirmation.

“Person” means and includes individuals, corporations, bodies corporate, limited or general partnerships, joint stock companies, limited liability companies, joint ventures, associations, companies, trusts, banks, trust companies, Governmental Authorities or any other type of organization or entity, whether or not a legal entity.

“Product” means either: (a) Carbon Credit or (b) Emission Reduction.

“Product Contract Amount” shall have the meaning given to it in the Confirmation.

“Product Price” shall have the meaning given to it in the Confirmation.

“Project” shall be Validated and shall have the meaning set forth in the Confirmation.

“Public Statement” shall have the meaning set forth in Section 10.

“Release” shall have the meaning set forth in Section 10.

“Registry” means (a) the Gold Standard, (b) Verra, (c) American Carbon Registry, (d) Climate Action Reserve, or (e) any other registry selected by the Seller with the prior consent of the Buyer, (not to be unreasonably withheld, conditioned, or delayed), for the purpose of serializing and evidencing the origination, ownership, and transfer of Products.

“Reversal” means an intentional or unintentional event which results in the emissions into the atmosphere of CO₂e for which Product was generated.

“Sanctioned Person” means any Person that is a designated target of Sanctions or is otherwise a subject of Sanctions, including as a result of being (a) owned, held or controlled by any person which is a designated target of Sanctions, (b) located or resident in, a national of, or organized under, the laws of any country that is subject to general or country-wide Sanctions, (d) a “designated person”, a “politically exposed foreign person” or “terrorist group” as described in any Sanctions or (d) any Person named on the list of Specially Designated Nationals and Blocked Persons List maintained by OFAC.

“Sanctioning Body” means any Governmental Authority in the United States Government (including OFAC) or any other relevant sanction authority which governs transactions in controlled goods or technologies or dealings with countries, entities or organizations or individuals subject to trade, economic or financial sanction or embargo or restrictive measures.

“Sanctions” means any trade, economic or financial sanction or embargo or restrictive measure imposed, administered or enforced from time to time by any Sanctioning Body.

“Science Based Targets’ Criteria” means the criteria for the science-based measurement of GHG Reductions, including but not limited to those listed on <https://sciencebasedtargets.org/resources/files/SBTi-criteria.pdf>.

“Seller” is the Party as identified in the Confirmation.

“Taxes” means all taxes, surtaxes, duties, royalties, levies, imposts, tariffs, fees, assessments,

reassessments, withholdings, dues, contributions and other charges and impositions of any nature, whether disputed or not, imposed, levied or charged by or on behalf of a Governmental Authority, and instalments in respect thereof, including such amounts imposed or collected on the basis of: income; profit; revenue; capital; real or personal property; payments; Deliveries or transfers of property or payments of any kind to residents or non-residents; purchases; consumption; sales; use; ad valorem; value added; stamp; gross receipts; licenses; environment; import, export of goods and services; distributions; registration of documents; occupation; labor; or equity; together with penalties, fines, additions to tax and interest thereon; and **“Tax”** shall have a corresponding meaning.

“Termination Payment” means any amount payable between the Parties under this Agreement other than the Contract Amount, such as any payment due in connection with an event of default or other unexcused failure to perform in accordance with this Agreement.

“Time of Delivery” shall have the meaning set forth in Section 2(c).

“Third Party(ies)” means a Person other than a Party.

“Transaction” means the sale and purchase of the Product as set forth in the Confirmation.

“Transaction Date” shall have the meaning set forth in the Confirmation.

“Trade Restriction” shall have the meaning set forth in Section 12.

“United Nations Framework Convention on Climate Change” or **“UNFCCC”** means the United Nations Framework Convention on Climate Change, May 9, 1992, S. Treaty Doc No. 102–38 (1992), 1771 U.N.T.S. 107.

“Validate, Validation and Validated” means the act of a Validation Body to confirm that a Project meets the Applicable Standard and Applicable Law. Projects with Science Based Targets' Criteria may not be subject to Validation.

“Validation Body” means the Person accredited to perform Validation of a Project under the International Organization for Standardization (ISO) 14065 standard, the International Standard on Assurance Engagements (ISAE) 3000 or other relevant accreditation standard.

“Verify, Verification, and Verified” means either (a) the act of a Verifier to confirm that Carbon Credits of a Project were generated and such Carbon Credits meet an Applicable Standard or (b) the act of validating Emission Reductions against a Science Based Targets' Criteria.

“Verifier” means the Person accredited to perform Verification of Carbon Credits under the ISO 14064 and 14065 standards, the Greenhouse Gas Protocol, or the ISAE 3000.

“Verra” means Verra, a nonprofit corporation registered under the laws of the District of Columbia (Washington, DC), and any successor thereto reasonably acceptable to the Seller.

2. Obligations and Deliveries.

(a) **Seller’s and Buyer’s Obligations.** Seller agrees to sell and Buyer agrees to purchase the Product, as applicable per the Confirmation, according to the terms of this Agreement. The Parties acknowledge and agree that this Agreement sets forth the agreed terms of each Transaction.

(b) **Payment.** Buyer shall transfer all Product Contract Amount due in the Currency to the Seller as per

the Payment Terms in accordance with the Confirmation. Buyer shall bear its own expenses associated with such funds transfers.

(c) **Delivery.**

(i) With respect to each Product considered separately, Seller is required to Deliver Product and Buyer is required to accept Product on the Delivery Date (the “**Time of Delivery**”).

(iii) Title to, interest in, and risk of loss related to the Product will transfer from Seller to Buyer at the Time of Delivery.

(ii) Each Party shall bear its own expenses associated with Delivery.

(d) **Reversal.** In the event that a Product is subject to Reversal, at Seller’s election, Seller will make commercially reasonable efforts to assist Buyer with obtaining replacement Product. In the event of a Reversal, neither Party shall have an obligation to provide any relief or replacement Product beyond that provided by the Applicable Registry (if applicable). In no event shall the total relief exceed the Contract Price.

(e) **Responsibility for Taxes.** Seller will pay for any and all legally required Taxes in relevant jurisdictions related to the Project and the transactions contemplated by this Agreement prior to and at Time of Delivery. Buyer will pay for any and all legally required Taxes in relevant jurisdictions related to the transactions contemplated by this Agreement after Time of Delivery.

3. **Representations.**

(a) **Authority.** Each Party represents and warrants to the other that as of the Effective Date, Transaction Date and the date upon which payment is due in accordance with the Payment Terms: (i) such Party is a legal entity, duly formed and validly existing and in good standing under the laws of the state / country of its formation, (ii) such Party has the full power and authority to execute, deliver, and perform this Agreement and to carry out the Transaction; (iii) the execution and delivery of this Agreement by such Party, and the carrying out by such Party of the Transaction, have been duly authorized by all requisite entity action, and this Agreement has been duly executed and delivered by such Party and constitutes the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with the terms hereof; (iv) no authorization, consent, notice to or registration or filing with any Governmental Authority is required for the execution, delivery, and performance by such Party of this Agreement and the Transaction; (v) none of the execution, delivery, and performance by such Party hereof, including Delivery, conflicts with or will result in a breach or violation of any Applicable Law (other than Applicable Laws with respect to intellectual property infringement, misappropriation and other violations), AML Legislation, Anti-corruption Laws, contract, or instrument to which such Party is a Party or is bound; (vi) there are no proceedings by or before any Governmental Authority, now pending or (to the knowledge of such Party) threatened, that if adversely determined could have a material adverse effect on such Party’s ability to perform the Party’s obligations under this Agreement and the Transaction; (vii) such Party is not relying upon any representations of the other Party other than those expressly set out in this Agreement; and (viii) each Party has entered into this Agreement with a full understanding of the material terms and risks hereof and is capable of assuming those risks.

(b) **Forward Contract; Forward Contract Merchant.** Each Party represents and warrants that it is an Eligible Contract Participant as defined in Section 1a(18) of the Commodity Exchange Act, as amended. Each Party represents that it is a “forward contract merchant” within the meaning of Section 101(26) of the Bankruptcy Code, and this Agreement and all transactions hereunder constitute “forward contracts” within

the meaning of Section 101(25) of the Bankruptcy Code and that the remedies identified in this Agreement shall be “contractual rights” as provided for in 11 U.S.C. § 556, as these provisions may be amended from time to time.

(c) **Seller Further Representations and Warranties.** With respect to each Product considered separately, Seller represents and warrants to Buyer that, to the best of Seller’s knowledge, upon Delivery of such Product to the Buyer:

- (i) Seller has the legal right to sell all right, title, and interest in the Product to be Delivered hereunder;
- (ii) Upon payment in full of the Product Contract Amount, Buyer will have the exclusive rights of ownership respecting the Product;
- (iii) Ownership of the Product has not been claimed by a Third Party;
- (iv) Seller has sold the Product only once, to Buyer hereunder; and
- (v) The Product and corresponding GHG Reductions have not been used by Seller to meet any international, federal, state, or local requirement, renewable energy procurement, renewable portfolio standard or other mandate.

(d) **Buyer Further Representations and Warranties.** Buyer represents and warrants to Seller that, on the Payment Due Date, Buyer has funds that are immediately available to pay all payments due in the Currency designated in the Confirmation.

(e) **Disclaimer.** EXCEPT TO THE EXTENT EXPRESSLY PROVIDED HEREIN THE PRODUCT IS PROVIDED "AS IS" AND "AS AVAILABLE," AND TO THE EXTENT ALLOWED BY APPLICABLE LAW, WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. SELLER, ITS AFFILIATES AND ANY THIRD-PARTY DATA PROVIDER DISCLAIMS AND EXCLUDES ANY AND ALL WARRANTIES NOT EXPRESSLY INCLUDED IN THIS AGREEMENT EXECUTED BY BUYER, WHETHER EXPRESS, IMPLIED, OR STATUTORY, ARISING BY LAW, STATUTE, USAGE OF TRADE, OR COURSE OF DEALING OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, OR TITLE, OR REGARDING THE ACCURACY, COMPLETENESS, OR TIMELINESS OF THE PRODUCT. SELLER DOES NOT WARRANT THAT THE PRODUCT WILL BE ERROR OR DEFECT FREE, THAT THE PRODUCT WILL ALWAYS BE ACCESSIBLE OR AVAILABLE, OR THAT ALL DEFECTS WILL BE CORRECTED. BUYER IS SOLELY RESPONSIBLE FOR THE SELECTION, USE, AND SUITABILITY OF THE PRODUCT FOR BUYER’S PURPOSES.

5. Indemnity.

(a) Each Party (the “**Indemnifying Party**”) agrees to indemnify, defend, and hold harmless the other Party and each of the other Party’s Affiliates and each of their respective directors, officers, employees, agents and permitted assigns (collectively, the “**Indemnified Parties**”), from and against any and all Third Party claims, losses, liabilities, damages, judgments, awards, fines, penalties, costs, and expenses (including reasonable attorneys’ fees and disbursement) (collectively, “**Losses**”) directly incurred in connection with or directly arising from or out of; (a) any violation of Applicable Law by the Indemnifying Party; or (b) any claims by a Third Party arising out of any willful misconduct by the Indemnifying Party. In addition, each Party agrees to indemnify, defend and hold harmless the other Party against any Taxes for which the indemnifying Party is responsible pursuant to this Agreement.

(b) **Indemnification Procedure.** To receive the benefit of indemnification, defense and hold harmless under Section 5(a), the Indemnified Parties must:

(i) Promptly notify the Indemnifying Party of a claim or suit or such Loss or Tax; provided, however, that failure to give such notice promptly will not relieve the Indemnifying Party of its indemnification, defense and hold harmless obligations except that, and solely to the extent that, such failure actually and materially prejudices the rights of the Indemnifying Party;

(ii) Provide reasonable cooperation to the Indemnifying Party (and its insurer), as reasonably requested, at Indemnifying Party's (or its insurer's) cost and expense; and

(iii) Tender to the Indemnifying Party (and its insurer) full authority to defend or settle the claim or suit; provided, that no settlement requiring any admission by the Indemnified Party or that imposes any obligation on the Indemnified Party will be made without the Indemnified Party's consent (not to be unreasonably withheld).

(d) **Consent.** The Indemnifying Party has no obligation to indemnify, defend or hold harmless the Indemnified Parties in connection with any settlement made without the Indemnifying Party's written consent; provided however, if the Indemnifying Party fails to (i) promptly respond to the notice under Section 5(c)(i), or (ii) promptly assume the defense of a claim or suit for Losses or Taxes, then the Indemnified Party shall have the right to defend and settle the claim or suit in such manner as it may deem appropriate, at the reasonable cost, expense, and risk of the Indemnifying Party.

(e) **Participation.** The Indemnified Parties have the right to participate at their own expense in the claim or suit and in selecting counsel therefor.

6. Limitation of Liability.

(a) THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. THIS AGREEMENT SETS FORTH THE FULL EXTENT OF THE PARTIES' OBLIGATIONS AND LIABILITIES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, AND THERE ARE NO CONDITIONS, WARRANTIES, REPRESENTATIONS OR TERMS, EXPRESS OR IMPLIED, THAT ARE BINDING ON THE PARTIES EXCEPT AS SPECIFICALLY STATED IN THIS AGREEMENT. ANY CONDITION, WARRANTY, REPRESENTATION OR OTHER TERM WHICH MIGHT OTHERWISE BE IMPLIED INTO OR INCORPORATED IN THIS AGREEMENT, WHETHER BY STATUTE, COMMON LAW OR OTHERWISE, IS HEREBY EXPRESSLY EXCLUDED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY HEREIN PROVIDED, THE LIABLE PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY.

(b) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS SECTION, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR (A) CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS, OR BUSINESS INTERRUPTION DAMAGES, WHETHER BY STATUTE, IN TORT OR IN CONTRACT, ARISING OUT OF OR IN CONNECTION WITH A PARTY'S PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES, AND (B) AMOUNTS IN EXCESS OF THE AMOUNT OF FEES PAID OR PAYABLE TO SELLER BY BUYER UNDER THIS AGREEMENT. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO. NOTHING IN THIS AGREEMENT SHALL EXCLUDE OR IN ANY WAY LIMIT EITHER PARTY'S LIABILITY FOR FRAUD. NOTHING IN THIS AGREEMENT SHALL EXCLUDE OR LIMIT EITHER PARTY'S INDEMNIFICATION OBLIGATIONS IN SECTION 5. EACH PARTY SHALL USE REASONABLE EFFORTS TO MITIGATE DIRECT DAMAGES, LOSS, COSTS OR EXPENSES IT MAY INCUR UNDER OR IN CONNECTION WITH THIS AGREEMENT.

(c) IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

7. Payment.

(a) **Invoices.** Seller shall invoice Buyer the Product Contract Amount in accordance with the payments due under the Confirmation.

(b) **No Offset.** Except as provided herein or as otherwise agreed in writing by the Parties, payment shall be made without deduction, withholding, or setoff.

(c) **Late Payments.** Without limiting any other rights provided for herein, all overdue payments, including those resulting from a disputed invoice amount or an Event of Default, shall bear interest from (and including) the Payment Due Date to the date of (and excluding) actual payment at a rate equal to the lesser of (i) two percent (2%) over the Interest Rate, and (ii) the maximum rate permitted by Applicable Law

8. Events of Default.

(a) Seller's Events of Default and Buyer Remedies.

(i) Unless otherwise excused by Force Majeure, the following shall constitute Seller's Events of Default:

(1) Breach of representations and warranties that has a material impact and the failure to cure such breach within 20 Business Days after notice from Buyer of such default;

(2) Breach of covenants that has a material impact and the failure to cure the default within 20 Business Days after notice from Buyer of such default; and

(3) Insolvency Event of Seller.

(ii) If an Event of Default has occurred, in addition to its remedies at law, Buyer may seek specific performance with respect to this Agreement or terminate this Agreement.

(iii) Once an Event of Default is otherwise cured or waived, Seller shall be deemed to have cured the default arising from such default.

(b) Buyer's Events of Default and Seller Remedies.

(i) Unless otherwise excused by Force Majeure, the following shall constitute Buyer's Events of Default:

(1) Buyer fails to pay any portion of a payment to Seller when due;

(2) Breach of representations and warranties that has a material impact and the failure to cure such breach within 20 Business Days after notice from Seller of such default;

(3) Breach of covenants that has a material impact and the failure to cure the default

within 20 Business Days after notice from Seller of such default; and

(4) Buyer makes any representation or warranty which is, in any material respect (or in any respect in the case of representations and warranties that are qualified by materiality), incorrect or incomplete;

(5) Insolvency Event of Buyer; or

(6) Material Adverse Effect of Buyer.

(ii) If a default has occurred, in addition to its remedies at law or in equity, Seller shall have the right to terminate this Agreement and receive payment of Product Price for any Product Delivered to the Buyer under this Agreement.

(iii) Once an Event of Default is otherwise cured or waived, Buyer shall be deemed to have cured the default arising from such default.

9. Term and Termination.

(a) **Term.** This Agreement shall commence on the Effective Date and shall terminate on the earlier of the date on which both Parties have completed the Delivery and payment obligations hereunder or the date on which this Agreement is earlier terminated as provided herein.

(b) **Effect of Termination.** Upon the effective date of termination, the Termination Payment shall immediately be paid.

10. Reservation of Rights; Ownership

(a) **Pre-Existing Intellectual Property Rights.** Each Party acknowledges and agrees that, except for the rights expressly provided for in this Agreement and any rights otherwise agreed upon between the Parties, neither Party shall acquire any rights, title, or interest in or to any pre-existing Intellectual Property Rights of the other Party including without limitation any tools and any methodologies used by the Parties in the performance of its obligations under this Agreement.

(b) **Reservation of Intellectual Property Rights.** Each Party acknowledges that it acquires no right, title, or interest under this Agreement (by implication, estoppel, or otherwise) to the other Party's Intellectual Property Rights, or any other Intellectual Property Rights owned by any Party or any of their respective Affiliates other than the limited rights expressly granted or assigned pursuant to this Agreement. Each Party expressly reserves all right, title, and interest in its own Intellectual Property Rights to the extent not expressly granted or assigned under this Agreement and reserves all rights therein.

(c) **Public Statements.**

Buyer and Seller shall not, and each Party shall ensure that its respective Affiliates, customers, and representatives do not, release, issue, distribute, publish, or otherwise make (a "**Release**") any public announcement, press release, other public statements, and promotional materials (a "**Public Statement**") regarding this Agreement and the information contained within a Confirmation, unless the Public Statement is either (i) Released jointly by the Parties or (ii) before the Release of the Public Statement, the Party seeking to Release the Public Statement furnishes the other Party with a copy of the proposed Public Statement and obtains such other Party's approval with respect thereto, which approval may not be unreasonably withheld or conditioned. The Buyer may provide a Public Statement to its customer provided it is first approved by the Seller in accordance with this Section 10.

(d) **General Public Statements**

Each Party has the right to Release Public Statements regarding this Agreement, in connection with any disclosure regarding the efforts by such Party and its Affiliates to reduce GHG emissions associated with its respective operations, subject to the condition that such Public Statements do not identify this Agreement, the other Party, or any of its respective Affiliates.

11. Confidentiality.

(a) Each Party will keep the other Party's Confidential Information secure, private, and confidential. Each Party will protect the other Party's Confidential Information using the same security measures and standard of care that they would apply to safeguard their own Confidential Information, but in no event less than reasonable security measures and standard of care.

(b) Seller and Buyer each agree not to use or disclose Confidential Information of the other Party except to the extent that such use or disclosure is:

(i) Reasonably necessary to perform a Party's obligations and duties under this Agreement (including, without limitation, in connection with the production of reports or information requested and required by a relevant Governmental Authority or other regulator); or

(iii) Authorized in writing by the other Party.

(c) Neither Seller nor Buyer shall be deemed to have breached this Agreement on account of the use or disclosure of any Confidential Information of the other Party if:

(i) Such use or disclosure is reasonably necessary to comply with the Applicable Standard, any Applicable Law or other legally enforceable requirement, or any request by any Governmental Authority having jurisdiction (including a relevant regulator) over the Party; and

(ii) The Party using or disclosing such Confidential Information provides to the other Party, as soon as reasonably practicable and, in any event, in advance of such use or disclosure, to the extent permitted by Applicable Law, written notice of such use or disclosure so that the other Party may seek a protective order or other appropriate remedy. With respect to requests from a Governmental Authority or relevant regulator for Confidential Information relating to a particular Product in connection with the Governmental Authority's or relevant regulator's review of the Product, Seller may disclose all documentation and other information regarding the Buyer and the Product to the Governmental Authority or relevant regulator, including Confidential Information of Buyer, without providing prior written notice to Buyer.

(d) Seller and Buyer will each be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, the obligations of the other Party under this Section 11. Absent written consent of the disclosing Party to the disclosure, the recipient Party, in the case of a breach of this Section 11, has the burden of proving that the disclosing Party's Confidential Information is not, or is no longer, confidential or a trade secret and that the disclosure does not otherwise violate this Section 11.

(g) Notwithstanding anything to the contrary in this Agreement, with respect to information and materials then in the possession or control of the receiving Party upon any termination of this Agreement, (i) the receiving Party may retain the Confidential Information of disclosing Party in its then-current state and solely to the extent and for so long as required by the Applicable Standard, Applicable Law or the

receiving Party's bona fide document retention policy; (ii) the receiving Party may also retain such Confidential Information in its backups, archives, and disaster recovery systems until such Confidential Information is deleted in its ordinary course; and (iii) all Confidential Information retained as described in this subsection will remain subject to all confidentiality and other requirements of this Agreement.

12. Force Majeure Procedure.

(a) Upon the occurrence of a Force Majeure, either Party may notify the other Party in writing of the commencement of the Force Majeure within two (2) Business Days following the occurrence of such event. Where the notification is from the Claiming Party, to the extent available to such Party, it should also provide details of the Force Majeure such as underlying circumstances of the particular causes of the Force Majeure and a non-binding estimate of the extent and the expected duration of its inability to perform its obligations, including the quantity of Product affected, due to the Force Majeure. The obligations of both Parties under this Agreement will be suspended for the duration of the Force Majeure. This notwithstanding, a Force Majeure event does not relieve a Party from liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation to pay money in a timely manner which matured prior to the occurrence of that event. During the continuation of the Force Majeure, the Claiming Party shall use all commercially reasonable endeavors to overcome the Force Majeure. Upon the Force Majeure being overcome or it ceasing to subsist, both Parties will, as soon as reasonably practicable thereafter, resume full performance of their obligations under this Agreement (including, for the avoidance of doubt, any suspended obligations). Where a Force Majeure continues for a period of one hundred and eighty (180) Business Days, either Party may, by written notice to the other Party, terminate this Agreement. Where an event or circumstance that would otherwise constitute or give rise to a default also constitutes a Force Majeure, it is to be treated as Force Majeure and not as a default.

(b) **Trade Restrictions.** Notwithstanding anything to the contrary herein, no Party shall be obliged to act in any way or to perform, and nothing in this Agreement is intended, or should be interpreted or construed as requiring or inducing a Party to act in any way or to perform any obligation otherwise required by this Agreement (including without limitation an obligation to (i) perform, deliver, accept, sell, purchase, pay or receive monies to, from or through a person or entity, or (ii) engage in any other acts) if this would be in violation of, inconsistent with, penalized or prohibited by, or expose such Party to punitive measures under any applicable laws of the United States of America or other jurisdiction applicable to the Parties relating to international boycotts, trade sanctions, foreign trade controls, export controls, non-proliferation, anti-terrorism or similar laws (the "**Trade Restrictions**"). Where any performance by a Party would be in violation of, inconsistent with, or expose such Party to punitive measures under a Trade Restriction, such Party (the "**Affected Party**") shall, as soon as reasonably practicable, give written notice to the other Party of its inability to perform. The Affected Party shall be entitled immediately to suspend the performance of the obligation (whether a payment or performance obligation) until such time as the Affected Party may lawfully discharge such obligation. If such inability by the Affected Party to perform its obligations under this Agreement persists for more than thirty (30) days, the Parties undertake to enter into negotiations in good faith regarding a variation of this Agreement in order to ensure that neither this Agreement nor its implementation constitutes a contravention of such law.

13. Miscellaneous.

(a) **Notices.** All notices, requests, and other communications hereunder (each, a "**Notice**") shall be in writing and shall be deemed to have been given (a) when delivered by hand; (b) when received by the addressee if sent by a nationally recognized overnight courier; or (c) on the date sent by email if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (d) on the fifth (5th) day after the date mailed, by certified or registered mail. Notices must be sent to the respective Party at the addresses in the Confirmation.

(b) **Survival.** Upon any termination of this Agreement, the Parties shall remain obligated to remit payment of any Termination Payment due and payable hereunder, and the following Sections of these PSA Terms and Conditions shall survive any termination of this Agreement in full force and effect, except to the extent that such Section provides a limited period of survival: Section 2, Section 3, Section 4, Section 5, Section 6, Section 7, Section 8, Section 10, Section 11, and Section 12.

(c) **Governing Law and Waiver of Jury Trial.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without reference to its law on conflicts of law. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act, each as adopted in any form in any jurisdiction, do not apply to this Agreement. The Parties hereby submit to the exclusive jurisdiction of any federal court of competent jurisdiction, or, if any federal court declines to exercise or does not have jurisdiction, in any New York state court situated in New York City, Borough of Manhattan, and to service of process by certified mail delivered to the Party at its last designated address. **EACH PARTY IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT.**

(d) **Entire Agreement.** This Agreement, and all documents expressly referred to in any of the foregoing, collectively constitute the entire agreement between the Parties and supersede and extinguish all prior and contemporaneous agreements, understandings, representations, warranties, proposals and communications, whether oral or written, between the Parties relating to the Transaction.

(f) **Headings.** The section and exhibit headings used herein are for references and convenience only and will not enter into the interpretation of this Agreement.

(g) **Rules of Interpretation.** The following rules of interpretation apply to the Agreement: (i) the word "or" is not exclusive and the words "including" or "include" are not limiting; (ii) a reference to any agreement includes permitted supplements, amendments and restatements; (iii) a reference to a particular law includes any amendment or modification to such law and any rules or regulations promulgated thereunder or any law enacted in substitution or replacement therefore; (iv) a reference to days, months, or years refers to calendar days, months, and years, unless Business Days are specified; (v) words of any gender include any other gender; (vi) words using the singular or plural number also include the plural or singular number, respectively; (vii) references to a particular Person include such Person's successors and assigns to the extent not prohibited by this Agreement; and (viii) a capitalized term not defined herein but reflecting a different part of speech than a capitalized term which is defined herein shall be interpreted in a correlative manner.

(h) **Counsel/Interpretation.** The Parties and their respective counsel have negotiated this Agreement or have had an opportunity to review this Agreement. The Parties hereto acknowledge and agree that: (i) the rule of construction to the effect that any ambiguities are resolved against the drafting Party will not be employed in the interpretation of this Agreement; and (ii) the terms and provisions of this Agreement will be construed fairly as to all Parties hereto and not in favor of or against any Party, regardless of which Party was generally responsible for the preparation of this Agreement.

(i) **Severability.** If any term of this Agreement is found to be illegal, invalid, or unenforceable under any Applicable Law, such term shall be deemed omitted from this Agreement and shall in no way affect the legality, validity or enforceability of the remaining terms.

(j) **Execution; Amendments; Counterparts.** The Parties agree that they may electronically sign this Agreement, and such electronically signed Agreement is just as legally valid and enforceable as if the Parties

had signed it on paper using handwritten signatures. An electronic or other copy of a signed document shall be considered as effective as an original. This Agreement may not be modified except in a record executed by authorized representatives of both Parties. This Agreement and any amendment thereto may be presented, delivered, and/or executed in as many counterparts as necessary or convenient, including both counterparts that are executed on paper and counterparts that are electronic records and executed electronically, and each executed counterpart shall be deemed an original. All such counterparts shall constitute one and the same document. For the avoidance of doubt, the exchange of email discussing or negotiating the terms of an amendment to this Agreement, even if such email is signed, does not in and of itself constitute a signed electronic record agreeing to such an amendment or its terms.

(k) **No Assignment; No Beneficiaries.** Neither Party shall assign this Agreement or any of its rights, benefits, duties, and obligations hereunder without the prior written consent of other Party, which consent may be withheld in its sole discretion. Except with respect to the rights expressly granted or reserved herein to Seller, nothing herein is intended or should be construed to create any rights of any kind whatsoever in third persons not Parties to this Agreement.

(l) **Waiver.** No waiver of any breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving Party.

(m) **Rights Cumulative.** The rights, remedies, and powers of the Parties under this Agreement are cumulative and do not exclude any other rights, remedies, or powers.

(n) **Sovereign Immunity.** To the extent that Buyer or any of its authorized representatives enjoys any right of immunity from set-off, suit, execution, attachment, or other legal process with respect to its assets or its obligations under this Agreement, Seller waives all such rights to the fullest extent permitted by Applicable Law.

(o) **Relationship of Parties.** The Parties hereto are and will remain independent contractors. Neither Party will have the right to obligate or bind the other Party in any manner to any third party. Notwithstanding any provision of this Agreement to the contrary, this Agreement establishes and shall only be construed as a contract between unrelated business entities for the provision of services and shall not be deemed to create a partnership, joint venture, fiduciary, agency, or any other type of joint relationship.