CONTRACT FOR FORWARD PURCHASE/SALE OF AUSTRALIAN CARBON CREDITS

**CONTRACT DETAILS**

|  |  |
| --- | --- |
| 1. Trade Date: | [\*\**insert date*\*\*] |
| 1. Seller: | [\*\**Insert details*\*\*]  [\*\**Insert address*\*\*] |
| 1. Buyer: | [\*\**Insert details*\*\*]  [\*\**Insert address*\*\*] |
| 1. Australian Carbon Credit: |  ACCUs |
| 1. Quantity: | [\*\**Insert number* \*\*] of Units of the Australian Carbon Credit |
| 1. Fixed Price: | A$[\*\**Insert price\*\**]per Unit of the Australian Carbon Credit, exclusive of GST. |
| 1. Creation Period: |  ACCUs: [Issued during / before the end of \*\**insert if relevant*\*\*] or [\*\**No creation period applies*.\*\*]. |
| 1. Agreed Carbon Credit Characteristics: | *[\*\*insert\*\*]*  *[For example, \*\*An* ACCU   * [from \*\**Insert Project Name and Project ID* \*\*] / * [with a project methodology \*\* *Insert Project Methodology* e.g. *for a Vegetation Regeneration Project [Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013]/[ Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013]* \*\*] / * [from \*\**Insert project type e.g. Agricultural / Carbon capture and Storage / Energy efficiency / Facilities / Industrial Fugitives / Landfill and alternative waste treatment / Mining, oil and gas / Savanna Burning / Transport / Vegetation / Vegetation - Regeneration*\*\*] * [excluding \*\**Insert Excluded Projects, if any \*\**] |
| 1. Comparable Carbon Credit Characteristics: | [\*\**insert\*\**] |
| 1. Delivery Terms: | [\*\* Physical Settlement \*\*]  [\*\* Retirement \*\*] |
| 1. Payment Date: | [\*\**Insert number*\*\*] Business Days [\*\**before/after*\*\*] the Delivery Date. [\*\**or\*\* the Delivery Date\*\**] |
| 1. Delivery Date: | [\*\**Insert date on which the Sold Australian Carbon Credit must be Delivered to the Buyer*\*\*] and if this date is not a Business Day the next Business Day after that date. |
| 1. Business Day: | [\*\**insert the place(s) to be specified\*\**] |
| 1. Buyer’s Registry Account: | [\*\**Insert details of the Buyer’s registry account or a nominee of the Buyer* \*\*] |
| 1. Seller’s Account: | [\*\**Insert details*\*\*] |
| 1. Default Interest Rate: | [*\*\*Insert the following or other agreed rate\*\**] [4%] above the RBA Cash Rate |
| 1. Settlement Disruption Longstop Date: | [The date that is *[\*\*insert number\*\*]* Business Days’following the occurrence of the relevant Settlement Disruption Event.] / [none specified] |
| 1. Cross Default Threshold: | [\*\*Will] \*\*/ [\*\*Will not \*\*] apply to this Transaction.  [\*\* Cross Default Threshold means:   1. for the Seller means *[\*\*insert \*\*]*; and 2. for the Buyer means *[\*\* insert \*\*]*. \*\*] |
| 1. Additional Events of Default: | [\*\*Will\*\*/ [\*\*Will not\*\*] apply to this Transaction.  [\*\* Each of the following will constitute an Additional Event of Default for the purposes of this Transaction:  *[\*\* insert \*\*]* \*\*] |
| 1. Credit Terms: | [\*\**Insert details of any credit support required and any credit support provider* \*\*] |
| 1. Additional Terms: | [*\*\*insert additional Termination Events or other terms\*\**] |
| 1. Jurisdiction: | [*\*\*insert jurisdiction for governing law\*\**] |

This Contract comprises the Contract Details above and the Australian Carbon Credit Forward Physical Terms and Conditions (### 2023 edition) published by the Australian Financial Markets Association Ltd, which are deemed to be incorporated in this Contract.

|  |  |  |
| --- | --- | --- |
| **SIGNED** for and on behalf of **SELLER**  by its authorised representative: |  | **SIGNED** for and on behalf of **BUYER**  by its authorised representative: |
| Name *(print)* |  | Name *(print)* |

## Definitions

Defined terms shall have the meaning set out in the Contract Details and as set out below and in the case of any inconsistency the meaning in the Contract Details prevails. Reference to legislation or rules includes reference to that legislation or rule as amended or replaced from time to time, and any applicable regulations made thereunder.

“**Abandonment of Scheme**” has the meaning in clause 8.

“**ACCU**” means a Kyoto Australian carbon credit unit within the meaning of the CFI Act, issued under Division 2 of Part 11 of the CFI Act and transferable under Division 3 of Part 11 of the CFI Act.

“**Affected Party**” means the party designated as the” Affected Party” for the purpose of a Termination Event.

"**Affected Transaction**” means each Transaction affected by the relevant Termination Event.

“**Agreed Carbon Credit Characteristics**” means the attributes specified as the “Agreed Carbon Credit Characteristics” in the Contract Details, if any.

**“ANREU”** means the Australian National Registry of Emissions Units established and continued in existence under the Registry Act or its successor.

“**Applicable Act**” means for a Sold Australian Carbon Credit the Relevant Act as well as in the case of ACCUs the Registry Act.

“**Applicable Registry**” means in respect of ACCUs the ANREU.

#### "**Australian Carbon Credit**” means the type of Australian carbon credit specified in the Contract Details.

“**Business Day**” means any day, which is not a Saturday or Sunday, on which commercial banks are open for general business in: (i) the place(s) specified as a Business Day in the Contract Details; or (ii) if no such place is specified, the capital cities in the State or Territory of the address of the Seller and Buyer specified in the Contract Details.

“**Buyer’s Registry Account**” means the Buyer’s account at the Applicable Registry set out in the Contract Details.

“**Buyer’s Replacement Cost**” means, in respect of a failure of the Seller to Deliver a number of Sold Australian Carbon Credits under a Transaction (that number being the “**BRC Shortfall**”) an amount equal to:

[(SPP – FP) \* BRC Shortfall] + IB where:

SPP is the price (per Unit) (the “**Spot Purchase Price**”) that the Buyer, acting in a commercially reasonable manner, does or would, in its determination, pay in an arm’s length transaction entered into on the first Business Day after the Delivery Date for a number of Sold Australian Carbon Credits, or if not able to be sourced, Comparable Carbon Credits, equivalent to the BRC Shortfall to be Delivered on the Business Day on which those Sold Australian Carbon Credits or Comparable Carbon Credits would be Delivered in accordance with prevailing market practice under a spot transaction entered into on the first Business Day after the Delivery Date;

FP is the Fixed Price for the relevant Transaction as set out in the Contract Details; and

IB is interest at the Default Interest Rate for the period from (and including) the Delivery Date to (but excluding) the earlier of the Final Delivery Date or the date of termination under clause 7(c)) on an amount equal to the product of the BRC Shortfall and an amount equal to the excess, if any, of the Spot Purchase Price over the Fixed Price.

“**CFI Act**” means the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth).

“**Comparable Carbon Credits**” means, in respect of an Australian Carbon Credit:

1. an Australian Carbon Credit that meets the attributes (if any) specified in the Contract Details as the “Comparable Carbon Credit Characteristics”; or
2. if the relevant Australian Carbon Credit is an ACCU, if no such attributes are specified as “Comparable Carbon Credits Characteristics” or “Agreed Carbon Credit Characteristics”, any ACCU with the same Creation Period.

#### “**Cross Default Threshold**” has the meaning in paragraph (h) of the definition of ‘Event of Default’.

#### "**Defaulting Party**” means the party in respect of which an Event of Default has occurred.

#### “**Deliver**” means:

1. in respect of Physical Settlement, when a Sold Australian Carbon Credit is actually transferred and received in the Buyer’s Registry Account in accordance with the Applicable Acts; and
2. in respect of Retirement, the earlier of (i) the cancellation or retirement of the Sold Australian Carbon Credit in the Seller’s Registry Account; and (ii) the Buyer’s receipt of written evidence of such Retirement consistent with the form, if any, adopted by the Applicable Registry,

(and **Deliver**, **Delivers**, **Deliverable** and **Delivery** will be construed accordingly).

"**Early Termination Date**” has the meaning in clause 11(a)(i)(B).

"**Event of Default**” means one or more of the following events:

1. an Insolvency Event;
2. failure by a party to make, within the time allowed under this Contract, any payment required pursuant to this Contract and such failure is not remedied within one (1) Business Day of notice being provided to the Defaulting Party;
3. failure by a party to provide, re-issue, or extend any guarantee or other security required in accordance with the requirements specified in the "Credit Terms" in the Contract Details, if any and such failure is not remedied within two (2) Business Days of notice being provided to the Defaulting Party;
4. any representation or warranty made by a party in this Contract, other than under clause 10(c) or 10(d), is false or misleading in any material respect in circumstances which may materially increase the other party’s risk and it is not remedied within fifteen (15) Business Days of notice being provided to the Defaulting Party;
5. a breach by a party of its obligations under a Transaction or this Contract (other than obligations to make any payment or obligations which are otherwise specifically expressed in this Contract to be either an Event of Default or not an Event of Default) that has a material impact on the other party’s ability to comply with their obligations under a Transaction or this Contract and, if such failure is capable of remedy, it is not remedied within fifteen (15) Business Days of notice being provided to the Defaulting Party;
6. if the parties have agreed in the Contract Details a cross default threshold amount (“**Cross Default Threshold**”), the existence of relevant indebtedness which in aggregate exceeds the Cross Default Threshold for a party, and for this purpose relevant indebtedness means indebtedness comprising any sum which is due for payment by the relevant party, and which such party has failed to pay in relation to any financial indebtedness (whether present or future, contingent or otherwise, as principal or surety or otherwise) for borrowed money (which includes debts payable to affiliates as well as debt instruments to financial institutions) and in respect of which any applicable grace period has expired; or
7. an Additional Event of Default if any is specified in the Contract Details.

"**Illegality**” means, in respect of a party and a Transaction, an event that occurs after the date of the Trade Date where it becomes unlawful, or it would be unlawful, for a party to make a payment on the Payment Date or a Delivery on the Delivery Date under this Contract (other than under clause 10(a)(iv)).

"**Insolvency Event**” means in respect of a party:

1. being, or having a resolution passed for it to be, dissolved or entered into liquidation whether compulsory or voluntary (other than for the purposes of amalgamation, consolidation or merger);
2. seeking or having a receiver, administrator, liquidator or similar official appointed over all or substantially all of its assets;
3. filing for or having filed against it: (i) a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditor’s rights; or (ii) a petition for its liquidation or being wound up; unless in the case of any such proceeding or petition being filed against such party it is discharged, dismissed, withdrawn, stayed or restrained within fifteen (15) Business Days of such filing;
4. making any general composition, assignment or arrangement with or for the benefit of creditors or having a secured party take possession of, or having a legal process levied against, all or substantially all of its assets;
5. becoming or being declared insolvent or bankrupt, being unable to pay its debts or acknowledging in writing its inability generally to pay its debts as they fall due; or
6. causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events in this paragraph (as specified above) (inclusive).

“**NGER Act**” means the *National Greenhouse and Energy Reporting Act 2007* (Cth).

**“Physical Settlement**” means the Sold Australian Carbon Credit is transferred to the Buyer’s Registry Account.

“**RBA Cash Rate**” means on any day, the rate most recently published by the Reserve Bank of Australia as its “RBA Interbank Overnight Cash Rate (AONIA)”.

“**Registry Act**” means the *Australian National Registry of Emissions Units Act 2011* (Cth).

“**Relevant Act**” means in the case of: ACCUs, the CFI Act and the NGER Act.

"**Requirements under the Scheme**” means a party satisfying the applicable warranties in clauses 10(c) and 10(d).

“**Retirement**” means the voluntary cancellation of the Sold Australian Carbon Credit in accordance with the Scheme (and **Retire** will be construed accordingly).

“**Retirement Date**” is the date the Seller must lodge the notice of Retirement with the Applicable Registry being the date described as the Delivery Date in the Contract Details unless otherwise specified.

“**Scheme**” means in the case of: ACCUs, the Relevant Act.

“**Seller’s Registry Account**” means the Seller’s account at the Applicable Registry.

“**Seller’s Replacement Cost**” means, in respect of a failure of the Buyer to accept Delivery of a number of Sold Australian Carbon Credits (the “**SRC Shortfall**”), an amount equal to:

[(FP – SSP) \* SRC Shortfall] + IS

**FP** is the Fixed Price as set out in the Contract Details for the relevant Transaction;

**SSP** is an amount equal to the price (per Unit) (the “**Spot Sale Price**”) the Seller, acting in a commercially reasonable manner, does or would, in its determination, receive in an arm’s length transaction entered into on the first Business Day after the Delivery Date for a number of Sold Australian Carbon Credits or, if not able to be sourced, Comparable Australian Carbon Credits equal to the SRC Shortfall to be Delivered on the first Business Day after the Delivery Date or, if later, the Business Day on which those Australian Carbon Credits would be Delivered in accordance with prevailing market practice under a spot transaction entered into on the first Business Day after the Delivery Date; and

**IS** is interest at the Default Rate for the period from (and including) the Delivery Date to (but excluding) the earlier of the Final Compliance Date or the date of termination under clause 7(d) on an amount equal to the product of the SRC Shortfall and an amount equal to the excess, if any, of the Fixed Price over the Spot Sale Price.

“**Settlement Amount**” has the meaning in clause 11(c).

#### “**Settlement Disruption Event**” means an event beyond the control of the party affected as a result of which the Sold Australian Carbon Credit cannot be Delivered under a Transaction in accordance with clause 2.

“**Settlement Disruption Longstop Date**” means (i) the date described in the Contract Details as the “Settlement Disruption Longstop Date”; or (ii) if no such date is specified, the date that is the earlier of: (A) nine (9) Business Days before the Surrender Date (if any), and (B) nine (9) Business Days after the Delivery Date, in each case, following the occurrence of the relevant Settlement Disruption Event.

“**Sold Australian Carbon Credit**” means the Quantity of the Australian Carbon Credit, satisfying the Creation Period requirement and having the Agreed Carbon Credit Characteristics.

“**Surrender Date**” means the date (if any) on which the Sold Australian Carbon Credit must be surrendered, relinquished or acquitted under or for the purposes of the applicable Scheme.

“**Tax**” means a tax, charge, levy, impost, deduction, withholding, duty or any other fiscal or revenue imposts of whatever nature (including stamp or transaction duty and goods and services, value added or similar tax) at any time: (a) imposed or levied by any government agency; (b) required to be remitted to, or collected, withheld or assessed by, and government agency; or (c) any related interest, expense, fine penalty or other charge on those amounts.

“**Tax Event**” means with respect to a party and a Transaction, there is a change in Tax law after the Trade Date as a result of which a party (designated as the Affected Party) must, or would be required to pay an additional amount to the other party under clause 13 (not including interest under clauses 6 or 15) or receive a payment from which an amount has been deducted or withheld on account of Tax and no additional amount is required to be paid in respect of such Tax under clause 13(d).

“**Termination Amount**” has the meaning in clause 11(a)(i)(B).

“**Termination Event**” means the occurrence at any time of any of the following events with respect to a party and a Transaction:

1. a Settlement Disruption Event;
2. an Illegality;
3. a Tax Event; or
4. any other event specified in the Contract Details to be a Termination Event with respect to a party.

“**Terminated Transactions**” means the Transactions terminated in accordance with clause 11(a).

“**Transaction**” has the meaning in clause 2(b).

“**Unit**” means in relation to ACCUs, one ACCU.

“**Unpaid Amounts**” has the meaning in clause 11(d)

## Sale and Purchase

#### Physical Settlement or Retirement, as specified in the Contract Details, (and not cash settlement) is applicable to each Transaction.

#### In respect of:

##### Physical Settlement, on the Delivery Date the Seller must Deliver the Sold Australian Carbon Credits to the Buyer in accordance with the terms of this Contract; and

##### Retirement, the Seller must send on the Retirement Date a request to the Registry to Retire the Sold Australian Carbon Credit in accordance with the terms of this Contract,

##### (“**Transaction**”).

#### If the Contract Details specify more than one Delivery Date in respect of Sold Australian Carbon Credits then, this Contract will be deemed to consist of a number of Transactions; each Transaction corresponding with one of the specified Delivery Dates in respect of the Sold Australian Carbon Credit, and having the Delivery Terms, Payment Date, Fixed Price, Quantity, Creation Period, Agreed Product Characteristics and Comparable Carbon Credit Characteristics specified or otherwise determined as provided in the Contract Details in respect of that Delivery Date.

#### The Seller must perform or cause to be performed all steps required to:

##### in respect of Physical Settlement, transfer the Sold Australian Carbon Credit to the Buyer’s Registry Account; and

##### in respect of Retirement and subject to clause 2(f), to Retire the Sold Australian Carbon Credit in the Seller’s Registry Account including sending a request to the Applicable Registry to Retire the Sold Australian Carbon Credits in the Seller’s Registry Account.

#### The Buyer must perform or cause to be performed all steps required to:

##### in respect of Physical Settlement, accept the transfer of the Sold Australian Carbon Credit in the Buyer’s Registry Account; and

##### in respect of Retirement, to [assist the Seller if reasonably required by the Seller to enable the Sold Australian Carbon Credit to be Retired in the Seller’s Registry Account].

#### Each party acknowledges and agrees that in respect of Retirement:

##### cancellation by an Applicable Registry of any Sold Australian Carbon Credit from, and including, the Payment Date but prior to the Retirement of the Sold Australian Carbon Credit shall discharge the Seller of its obligation to the Buyer to Retire the Sold Australian Carbon Credit; and

##### the Seller shall have no liability for any actions, delays, omissions, negligence or errors of the Applicable Registry in connection with the Retirement of the Sold Australian Carbon Credit.

## Settlement Disruption Event

#### Subject to clause 3(b), if a Settlement Disruption Event prevents Delivery of some or all of the Sold Australian Carbon Credits (“**Affected Carbon Credits**”) on the Delivery Date for a Transaction, then the Delivery Date for those Affected Carbon Credits will be the first succeeding Business Day on which Delivery of the Affected Carbon Credits can take place and if the Payment Date specified for that Transaction falls after the Delivery Date, the Payment Date will be extended by a corresponding number of days in respect of the Affected Carbon Credits.

#### If a Settlement Disruption Event is continuing on the Settlement Disruption Longstop Date, then a Termination Event will be deemed to have occurred in respect of the Affected Carbon Credits on the first Business Day following the Settlement Disruption Longstop Date. .

#### If an event which would otherwise give rise to a Settlement Disruption Event also constitutes an Abandonment of Scheme it will be treated as an Abandonment of Scheme and will not constitute a Settlement Disruption Event. An event that constitutes or gives rise to a Settlement Disruption Event will not, for so long as that is the case, also constitute or give rise to an Event of Default.

## Transfer and Retirement Fees

All transfer or Retirement fees and other similar expenses for Delivery of a Sold Australian Carbon Credit required by the Applicable Act and any stamp duty will be payable by the Buyer. If the Seller is required by the Applicable Act to pay any transfer or Retirement fee or other similar expense for the Delivery of the Sold Australian Carbon Credit, the Buyer shall reimburse such expense within a reasonable time from the Seller’s demand.

## Payment

#### In respect of a Transaction, the Seller must issue the Buyer with a valid tax invoice for an amount equal to the Fixed Price multiplied by the Sold Australian Carbon Credit (“**Payment Amount**”).

#### In respect of a Transaction, the Buyer must pay to the Seller the Payment Amount by transferring the Payment Amount to the Seller’s Account on the Payment Date.

#### If on the Delivery Date for a Transaction, there is a BRC Shortfall or SRC Shortfall (each a “**Unit Shortfall**”), the Buyer’s obligation to pay the Payment Amount pursuant to clause 5(a) shall be reduced by an amount equal to the Unit Shortfall multiplied by the Fixed Price or the Adjusted Fixed Price, as applicable, and the Seller shall adjust the tax invoice accordingly (or as otherwise agreed). Clause 7 will apply in respect of the Unit Shortfall .

#### All payments under this Contract shall be made by direct bank transfer in immediately available funds without any deduction or withholding, except to the extent expressly permitted under this Contract

## Interest

Interest at the Default Interest Rate is payable by the payor to the payee on any late payment, from (and including) the date that payment is due until (and excluding) the date that payment is made.

## Failure to Deliver or accept Delivery

#### If in respect of a Transaction the Seller fails to Deliver a number of Units of the Sold Australian Carbon Credit to the Buyer on the Delivery Date (“**BRC Shortfall**"), other than as a result of a Settlement Disruption Event, an Abandonment of Scheme, or the failure of the Buyer to comply with either clause 2(e) or the Requirements under the Scheme, then the Delivery Date and the Payment Date will be postponed and the Buyer may, if the failure is continuing, by written notice to the Seller, require the Seller to remedy such failure (“**Notice to Remedy**”).

#### If the Seller Delivers:

##### the BRC Shortfall on or before the first Business Day after the later of the Notice to Remedy or the Delivery Date; or

##### with the agreement of the Buyer delivers Comparable Carbon Credits in the same quantity as the BRC Shortfall on or before the second Business Day after the later of the Notice to Remedy or the Delivery Date,

##### the Buyer shall pay to the Seller on the Business Day following the date of actual Delivery (the “**New Payment Date**”) an amount equal to the Fixed Price multiplied by the relevant number of Australian Carbon Credits Units provided that the Fixed Price will be adjusted to reflect the price per Unit agreed between the parties for the Comparable Carbon Credits (“**Adjusted Fixed Price**”); and

##### the Seller shall pay to the Buyer on the New Payment Date interest at the Default Rate on an amount equal to the quantity of the BRC Shortfall multiplied by an amount equal to the Fixed Price or Adjusted Fixed Price, as applicable, for the period from (and including) the Delivery Date to (but excluding) the date of actual Delivery.

#### Whether or not a Notice of Remedy is given under clause 7(a), if the failure is not remedied by the date specified in clause 7(b)(i) or 7(b)(ii),as applicable (“**Final Delivery Date**”) the Buyer may terminate the parties’ obligations with respect to the number of Units not Delivered on the relevant Delivery Date and if the Buyer does so, the Seller must pay to the Buyer an amount equal to the Buyer’s Replacement Cost (if a positive number), adjusted to take into account any amount paid by the Buyer to the Seller for any Australian Carbon Credits that have been paid for and not Delivered, such payment to be made by the Seller to the Buyer no later than one (1) Business Day after receiving the invoice for the amount to be paid to the Buyer.

#### If the failure to Deliver in respect of a Transaction occurs as a result of the failure of the Buyer to accept Delivery of a number of Units (“**SRC Shortfall**”) including arising from the Buyer’s failure to comply with either clause 2(e) or the Requirements under the Scheme (“**Failure to Comply**”), the Delivery Date and the Payment Date will be postponed and the Seller may, if the failure is continuing, by written notice to the Buyer require the Buyer to remedy its Failure to Comply (“**Notice to Comply**”).

#### If the Buyer accepts Delivery and remedies its Failure to Comply on or before the first Business Day after the later of the Notice to Comply or the Delivery Date (“**Final Compliance Date**”):

##### the Seller shall on the Business Day following the date it is notified that the Buyer has remedied its Failure to Comly, Deliver to the Buyer the SRC Shortfall (the “**New Delivery Date**”); and

##### the Buyer shall pay to the Seller on the New Delivery Date:

###### an amount equal to the Fixed Price multiplied by the quantity of the SRC Shortfall; and

###### interest at the Default Rate for the period from (and including) the Delivery Date to (but excluding) the date of payment.

#### Whether or not a Notice to Comply is given under clause 7(d), if the Failure to Comply is not remedied by the Final Compliance Date the Seller may terminate the parties’ obligations with respect to the number of Units not Delivered on the relevant Delivery Date in respect of that Transaction and if the Seller does so, the Buyer must pay to the Seller an amount equal to the Seller’s Replacement Cost (if a positive number), adjusted to take into account any amount paid by the Buyer to the Seller for any Australian Carbon Credits that have been paid for and not Delivered in respect of that Transaction, such payment to be made by the Buyer to the Seller no later than one (1) Business Day after receiving the invoice for the amount to be paid to the Seller.

#### Notwithstanding a failure to Deliver under this clause 7 , for the avoidance of doubt in the event of a partial delivery in respect of a Transaction, the Buyer must pay to the Seller on the Payment Date an amount equal to the Fixed Price (or Adjusted Fixed Price, as applicable) multiplied by the number of Units (if any) that the Seller Delivers to the Buyer.

#### [A failure to Deliver or a Buyer’s Failure to Comply under a Transaction will not constitute an Event of Default under this Contract.]

## Abandonment of Scheme

If the Scheme establishing a Sold Australian Carbon Credit is repealed or terminated (such event being an “**Abandonment of Scheme**”) all obligations under each Transaction for that Sold Australian Carbon Credit, which are required to be performed after the effective date of cessation of the Scheme, shall cease on that date. Each such Transaction for the relevant Sold Australian Carbon Credit shall automatically terminate on that date as though the obligations to be performed after that date had been performed in full such that neither party shall have a claim against the other arising from the repeal or termination of the Scheme. The Seller shall promptly refund to the Buyer any amount that has been paid by the Buyer in respect of the Sold Australian Carbon Credit which, but for this clause 8, would have been Deliverable after the date of termination of the Transaction together with interest, at the RBA Cash Rate, on that amount for the period from (and including) the date the amount was paid to (but excluding) the date of termination of the Transaction in accordance with this clause 8.

## Title

Title to a Sold Australian Carbon Credit Delivered in accordance with this Contract:

#### by Physical Settlement will transfer to the Buyer when the Sold Australian Carbon Credit is received in the Buyer’s Registry Account; and

#### by Retirement will be extinguished upon the Sold Australian Carbon Credit being recorded by the Applicable Registry in accordance with the Scheme as Retired or otherwise cancelled, to the extent possible under the relevant Scheme.

## Representations and Warranties

#### Each party represents and warrants to the other party as at the Trade Date and each Delivery Date:

##### it is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation (and, if relevant under those laws, in good standing);

##### it has the power to execute, deliver and perform its obligations under each Transaction and this Contract;

##### the obligations created under each Transaction and this Contract are valid and legally binding obligations of it, enforceable in accordance with its terms;

##### it has all authorisations, licences, consents and approvals to execute, deliver and perform a Transaction and this Contract;

##### it has entered into this Contract as principal (and not as agent or in any other capacity, fiduciary or otherwise);

##### the other party is not acting as a fiduciary or an advisor for it, nor has the other party given to it any advice, representation, assurance or guarantee as to the expected performance, benefit or result of any Transaction; and

##### it is not relying upon any representations except those expressly stated in this Contract.

#### The Seller warrants that, at the time it Delivers the Sold Australian Carbon Credit to the Buyer under this Contract that:

##### to the best of its knowledge the Sold Australian Carbon Credit has been issued in accordance with the applicable Scheme and satisfies the Creation Period requirement and Agreed Carbon Credit Characteristics for the Sold Australian Carbon Credit;

##### it has full legal and beneficial title to the Sold Australian Carbon Credit and it transfers the same free and clear of any security interest, claim, lien or encumbrance of any kind; and

##### in respect of Sold Australian Carbon Credits to be Retired under this Contract that they have not been already extinguished or Retired by the Seller.

#### The Buyer warrants that in respect of:

##### Physical Settlement, at the time of Delivery to the Buyer, the Buyer Registry Account is valid and operational to receive the Sold Australian Carbon Credit to be Delivered to the Buyer under this Contract; and

##### Retirement, once the Sold Australian Carbon Credit has been Retired, other than in the context of claiming the benefit of having offset its greenhouse gas emissions in connection with any Sold Australian Carbon Credit the Buyer:

###### shall not exercise or purport to exercise any right under, or interest in, or otherwise use, that Sold Australian Carbon Credit or its environmental attributes;

###### acknowledges that no person has any further right to take the benefit of that Sold Australian Carbon Credit or any related environmental attribute; and

###### shall have no recourse to the Seller in respect of any claims which are erroneously made by the Buyer in respect of the Sold Australian Carbon Credit and the Seller shall bear no liability for any erroneous claims made by the Buyer in respect of that Sold Australian Carbon Credit.

#### At the time of Delivery of the Sold Australian Carbon Credit the Buyer and Seller each warrant to the other that:

##### it will conduct its affairs so as not to give any person having authority to do so, reason to block, suspend, refuse, reject or cancel the transfer (whether in whole or in part) of the Sold Australian Carbon Credit; and

##### it will comply with the Applicable Acts to the extent necessary to permit the Delivery by it or its acceptance of the Delivery of the Sold Australian Carbon Credit.

## Early Termination

#### If an Event of Default or Termination Event has occurred, and is continuing:

##### in respect of an Event of Default, the non-Defaulting Party may, in its absolute discretion:

###### withhold or suspend Delivery of Sold Australian Carbon Credits under a Transaction without prior notice to the Defaulting Party; and

###### give written notice to the Defaulting Party that it is terminating this Contract and all Transactions not yet performed;

##### in respect of a Termination Event, either party (or in respect of a Tax Event, any Affected Party) may, in its absolute discretion, give not less than two (2) Business Days’ notice to the other party that it is terminating the Affected Transactions, and if no remaining Transactions, this Contract,

##### such notice to specify the termination date (which date shall not be earlier than the date of such notice and no later than twenty (20) days after such notice) (“**Early Termination Date**”) after which no further payments (other than under this clause 11), or Deliveries shall be required to be made in respect of the Terminated Transactions or, if terminated, this Contract, and instead one party shall pay an amount calculated in accordance with clause 11(b) (“**Termination Amount**”) to the other party.

#### A Termination Amount shall be calculated by:

##### in respect of an Event of Default, the Non-Defaulting Party being an amount (which may be positive or negative) equal to (i) the sum of the Settlement Amount (which may be a positive or negative amount) and the Unpaid Amounts owing to the Non-Defaulting Party, less (ii) the Unpaid Amounts owing to the Defaulting Party under the Terminated Transactions or this Contract, as applicable. Where positive, the Termination Amount shall be paid by the Defaulting Party to the non-Defaulting Party, and where negative, the absolute value of the Termination Amount within three (3) Business Days of written notification of the Termination Amount by the non-Defaulting Party; and

##### In respect of a Termination Event, each party will determine a Settlement Amount for all Terminated Transactions (which may be positive or negative) and the Termination Payment will be an amount equal to (i) one half of the difference between the higher Settlement Amount (as determined by party “**X**”) and the lower Settlement Amount (as determined by party “**Y**”) (which may be a positive or negative amount),plus (ii) the Unpaid Amounts owing to X, less (iii) the Unpaid Amounts owing to Y. Where positive, the Termination Amount shall be paid by Y to X, and where negative, the absolute value of the Termination Amount shall be paid by X to Y within five (5) Business Days of determination of the Termination Amount by the parties.

##### Notice of a Termination Amount will include reasonable details about the sum payable including applicable calculations, market data or other relevant information.

##### The parties acknowledge that the Termination Payment is the parties’ reasonable pre-estimate and approximation of the loss that would likely result from an Event of Default or Termination Event, as applicable, and the early termination of the Terminated Transactions, and each party waives the right to contest those payments and amounts as a penalty. The Termination Payment is payable for the loss of bargain and the loss of protection against future risks, and, except as otherwise provided in this Contract, neither party will be entitled to recover any additional damages as a consequence of the termination of the Terminated Transactions or this Contract.

#### The "**Settlement Amount**" is an amount which a party determines using commercially reasonable procedures to produce a commercially reasonable result to be its total losses and costs (or gain, in which case the "Settlement Amount" is expressed as a negative amount) resulting from the termination of each Transaction or this Contract, as applicable, including loss of bargain, cost of funding or, at the election of the party making the determination where it is reasonable to do so, but without duplication, loss or cost reasonably incurred as a result of its terminating, liquidating or re-establishing any related trading position (including any arrangement whereby it has hedged its obligations under a terminated Transaction or this Contract, as applicable) or entering into new arrangements which replace the terminated Transaction(s) under this Contract or preserve for the non-Defaulting Party or non-Affected Party, as applicable, the economic benefit of such Transaction (or, as the case may be, any resulting gain). The Settlement Amount does not include any legal fees, out of pocket expense or Unpaid Amounts. The Settlement Amount will be determined as of the Early Termination Date, or, if that is not reasonably practicable, as of the earliest date after the Early Termination Date as is reasonably practicable. A party may. but need not, determine the Settlement Amount by reference to quotations of relevant rates or prices from one or more leading dealers of the relevant type of Sold Australian Carbon Credit.

If the Termination Event is an Illegality or Settlement Disruption Event, then in determining the Settlement Amount the determining party (“**Determining Party**”) will:-

##### if obtaining quotations, ask each quoting party (A) not to take account of the current creditworthiness of the Determining Party, and (B) to provide mid-market quotations; and

##### in any other case, use mid-market values without regard to the creditworthiness of the Determining Party.

#### The "**Unpaid Amounts**" are those amounts owing from one party to the other as at the Early Termination Date, being (i) sums which have become due for payment in respect of each Terminated Transaction on or before the Early Termination Date but which have not by that date been paid, (ii) sums payable in respect of Deliveries made on or before the Early Termination Date but in respect of which payment has not become due by that date, (iii) sums payable in respect of Seller’s Replacement Cost or Buyer’s Replacement Cost, as applicable, to the extent that payment of such sums has not become due by the Early Termination Date, and (iv) interest payable on unpaid amounts. The value of Unpaid Amounts shall be: (a) in the case of a payment due but not yet paid, the amount of such payment; (b) in the case of a Delivery made for which payment has not become due by the Early Termination Date, an amount equal to such Delivery's value in accordance with the terms of a Transaction; (c) in the case of a Seller’s Replacement Cost or Buyer’s Replacement Cost, payment not having become due by the Early Termination Date, the amount which would have become payable pursuant to this Contract in respect of such failure; and (d) in the case of interest on unpaid amounts, interest calculated in accordance with this Contract.

#### The non-Defaulting Party (in respect of an Event of Default) and the non-Affected Party (in respect of a Termination Event where all outstanding Transactions are Terminated Transactions) may set off any amount payable by it (“**Payer**”) to the other party (“**Payee**”) under this Contract against any or all other amounts payable by the Payee to the Payer (whether or not matured, contingent or invoiced) between the parties under any other transactions, agreements, instruments or undertakings between the parties. This right of set off shall be without prejudice and in addition to any right of set off, combination of accounts, lien, charge or other right to which any party is at any time otherwise entitled (whether by operation of law, by contract or otherwise). If an amount is unascertained, the Payer may in good faith estimate the amount and set off and recoup in respect of that estimate. The parties shall make any adjustment payment required within three (3) Business Days of the amount becoming ascertained.

#### [The rights of the parties under this clause 11 shall apply without prejudice to any other rights of, or remedies available to, a party or any other right of set-off which either party may have whether by agreement, operation of law or otherwise.]

#### Nothing in this Contract shall be effective to create a charge or other security interest.

## GST

If a party (the "**supplier**"):

#### is liable to pay goods and services tax (“**GST**”) on a supply made by it under this Contract; and

#### issues a valid tax invoice to the recipient,

#### then the recipient agrees to pay to the supplier an additional amount equal to the consideration payable for the supply multiplied by the prevailing GST rate (without deduction or set off):

#### if the tax invoice is issued prior to the due date for payment, on the due date for payment; or

#### if the tax invoice is issued on or after the due date for payment, within ten (10) days after the issue of the tax invoice.

The supplier agrees to issue a valid adjustment note within seven (7) days of becoming aware that the actual amount of GST payable by it on the supply differs from the amount paid by the recipient. Payment adjustments must then be made between the parties within two (2) Business Days to reflect the actual amount of GST payable.

All references have the same meaning as provided in the *A New Tax System (Goods and Services Tax) Act* 1999 (Cth).

## Withholding tax

If the Buyer is required by law to withhold from a payment to be made to the Seller it must:

#### make those deductions or withholdings (or both);

#### pay the full amount deducted or withheld as required by relevant law;

#### give the Seller a receipt for each payment; and

#### increase its payment to the Seller to an amount which will result in the Seller receiving the full amount which would have been received if no deduction or withholding has been required, except where the deduction or withholding:

##### arises under or in connection with FATCA; or

##### it can be lawfully avoided by the Seller providing the Buyer with its Australian Business Number.

#### In this clause 13, FATCA means the *Foreign Account Tax Compliance Act* provisions, sections 1471 through 1474 of the United States Internal Revenue Code (including any regulations or official interpretations issued, agreements entered into or non-US laws enacted with respect to those provisions).

## Miscellaneous

#### ***Consequential Losses***. Except to the extent included in the Buyer’s Replacement Cost, Seller’s Replacement Cost or Termination Payment neither party is liable to the other, whether in contract, tort (including negligence and breach of duty) or otherwise, for any business interruption or loss of use, profits, contracts, production or revenue or for any consequential or indirect loss or damage of any kind however arising.

#### ***Severability.*** If, at any time, any provision of this Contract is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

#### ***Notices.*** Any payment demand, notice, correspondence or other document to be given under this Contract shall be in writing and delivered by any one of the following means: (i) personally; (ii) by courier service; (iii) by certified mail (postage prepaid and return receipt requested); or (iv) by email, to the addresses set out in the Contract Details (including as may be subsequently designated by effective notice). Notices given by personal delivery, courier service or certified mail shall be effective upon actual receipt, or, if receipt is refused or rejected by the intended recipient, upon attempted delivery. Notice given by email shall be effective upon actual receipt if received during the recipient’s normal business hours or at the beginning of the recipient’s next Business Day after receipt if not received during the recipient’s normal business hours.

#### ***Amendments****.* This Contract cannot be amended except by a written instrument signed by both parties.

#### ***Assignment****.* A party may not assign or transfer the Contract or any interest in or obligation under it without the prior written consent of the other party.

#### ***Counterparts.*** This Contract may be executed in any number of counterparts (including by DocuSign or other electronic signature technology, scanned PDF counterpart, or other electronic means), each of which shall be deemed an original, but all of which together shall constitute the same instrument.

## Governing law and jurisdiction

This contract is governed by the law of the jurisdiction specified in the Contract Details. Each party submits to the non-exclusive jurisdiction of the courts in that jurisdiction and courts of appeal from those courts.