**PENDING ISSUANCE UNIT PURCHASE AGREEMENT**

**Disclaimer**

The use of this Agreement is not a requirement for projects developed under the Peatland Code or Woodland Carbon Code. This Agreement has been produced as a voluntary support tool only, and, accordingly, neither Scottish Forestry nor any of the parties involved in the creation of the Agreement bear any responsibility or liability for the outcomes resulting from its use.

The provision of this Agreement does not, and is not intended to, negate the need to seek professional and legal advice. You should seek your own legal advice if you are considering developing, investing in or purchasing units from, projects under the Peatland Code or Woodland Carbon Code.

**Version**

This Agreement v1.0 was published by Scottish Forestry and IUCN UK on 19th March 2025 for use on projects under either, the Woodland Carbon Code version 2.2 published in April 2022, or the Peatland Code Version 2.1 published in October 2024. Users should ensure that the most recent form of the Agreement is being used to ensure compatibility with the applicable correct version of the Woodland Carbon Code or Peatland Code is referenced at the time of entering the Agreement.

**Dated 20[ ]**

**PENDING ISSUANCE UNIT PURCHASE AGREEMENT**

between

|  |  |
| --- | --- |
| Seller |  |

and

|  |  |
| --- | --- |
| Buyer |  |

for the sale and purchase of Pending Issuance Units on the terms and conditions set out in this Agreement

**PURPOSE**

This Agreement is designed for use in a situation where a Seller is carrying out a project under the Woodland Carbon Code or the Peatland Code and has agreed to sell all or any of the Pending Issuance Units generated by that project to the Buyer. This Agreement is suitable for use when the Parties wish Pending Issuance Units to be transferred by the Seller to the Buyer.

This Agreement is not suitable for use in the situation where Parties wish Carbon Units that have been verified under the Woodland Carbon Code or the Peatland Code to transfer from the Seller to the Buyer, and that whether contracting prior to, on or after such verification. In such a situation the Parties may wish to consider using the Carbon Unit Purchase Agreement.

**AGREEMENT TERMS AND CONDITIONS**

The Seller agrees to sell, and the Buyer agrees to purchase, the Contract Quantity of Pending Issuance Units in accordance with the terms set out in the Commercial Term Sheet, the General Terms & Conditions and the Project Design Documents contained in Part 2 of the Schedule annexed to this Agreement.

**COMMERCIAL TERM SHEET**

|  |  |
| --- | --- |
| Project Site | [address], as shown outlined in [ ] on the Site Plan contained in Part 1 of the Schedule |
| Governing Code | [Woodland Carbon Code][Peatland Code] |
| Governing Code Reference | [N.B – only available if contracting post-registration] |
| Project | [nature and scale of project; can include species mix] as particularly described in the Project Design Documents (including management plan) contained in Part 2 of the Schedule |
| Tenure | [Landowner/Tenant] |
| Landlord | [name and designation/ N/A] |
| Buyer Exclusivity | [yes/no] |
| Contract Quantity | [overall number of PIUs that the Seller is contracting to sell and the Buyer is contracting to purchase, and may subsequently change in accordance with Clause 7 if contracting pre-validation] |
| Contract Period | [time period] |
| Carbon Sequestration Profile | [Contract Quantity, broken down in vintages] |
| Registration Longstop Date | [if parties wish to include and registration under the Governing Code has not occurred at point of contracting] |
| Establishment Works Commencement Longstop Date | [date agreed between parties, if they wish to include and works have not commenced at point of contracting] |
| Validation Longstop Date | [4 years from Registration for WCC Projects / for PC projects][*optional wording –* but extended to the end of any extension for period for Validation of the Specified Project as has been approved by the Carbon Oversight Authority on request by the Seller ] |
| Verification Frequency | [Per Governing Code][annually][*some other frequency as parties agree*] |
| Price | [aggregate of Unit Price for each Unit within Contract Quantity, and being aggregate of Deposit, Completion Payment and Post-Completion Payment], |
| Unit Price(s) | [can be different price for each vintage and/or for woodland unit / peatland unit – can also stipulate that they will be Index-linked from a particular date] |
| Deposit | [any upfront sum/sums that is paid in advance of transfer of PIUs, and the date or dates when such sums shall be payable] |
| Completion Payment | [element of Price paid at time of transfer of Contract Quantity of PIUs] |
| Post-Completion Payment | [any element of Price that is deferred until after date of transfer of PIUs, and the date or dates when such sums shall be payable] |
| Verification Payment | [any part of the Post-Completion Payment that has to be paid at Verification of Units ] |
| Index | [RPI / CPI/other index – if to be used for purposes of pricing, compensation or refunds] |
| Overdelivered Unit Price | [Unindexed Unit Price][Indexed Unit Price][Market Value] |
| Avoidable Loss Compensation | [Reimbursement / Reimbursement Index-linked / Market Value Compensation/ Bespoke Provisions/no Compensation ] |
| Unavoidable Loss Compensation | [Reimbursement / Reimbursement Index-linked / Market Value Compensation/ Bespoke Provisions/no Compensation ] |
| Seller Fault Payment | [Damages/Full Refund/Full Refund Index-linked/no Refund/Bespoke Provisions] |
| No Seller Fault Payment | [Damages/Full Refund/ Full Refund Index-linked/no Refund/Bespoke Provisions] |
| Minimum Threshold | [expressed as a percentage and relevant for Clause 7.2 – if parties contracting pre-validation and it is agreed that buyer should have the ability to terminate if what is validated is a particular percentage below what was expected. If you insert "N/A" then clauses 7.2 and 7.3 will not apply] |
| Change Risk | [Buyer/Seller] |
| Insurance | [yes/no] |
| Secured Contracts | [yes/no – is there a standard security?] |
| Security Payment Date | [Deposit/Completion Payment] |
| Buyer Maximum Liability Sum | [sum agreed between parties] [ if no such obligation to be included then "nil") |
| Seller Maximum Liability Sum | [sum agreed between parties] [ if no such obligation to be included then "nil") |
| Step-in Rights | [yes/no] |
| Buyer Access | [yes/no] |
| Publicity Rights | [yes/no] |
| Change in Control Restriction | [yes/no] |
| Seller Notice Address | [ ] |
| Buyer Notice Address | [ ] |
| Dispute Resolution Procedure | [ expert determination / arbitration] |
| Nominated Bank | [ parties' preference – to determine interest rate] |

|  |  |
| --- | --- |
| SIGNED FOR AND ON BEHALF OF THE SELLER | PRINT NAME: |
|  | SIGNATURE: |

|  |  |
| --- | --- |
| SIGNED FOR AND ON BEHALF OF THE BUYER | PRINT NAME: |
|  | SIGNATURE: |

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1. Definitions

In the Commercial Term Sheet, the General Terms & Conditions and the Additional Clauses, the following terms have the following meanings:

1. **Additional Clauses** means the clauses (if any) contained in Part 3 of the Schedule, which supplement the other clauses of this Agreement and/or vary the other clauses of this Agreement;
2. **Ancillary Lands** means land (which shall include roads thereon) outwith the Specified Project Site but over which access requires to be taken in order to take access to and from the Specified Project Site in order to carry out the Specified Project or which otherwise serves any function as part of the Specified Project;
3. **Avoidable Loss** means either (a) a failure to Verify the Contract Quantity or (b) Cancellation of any PIUs forming part of the Contract Quantity or (c) any of the Verified Sale Units being allocated to the Buffer, that can in each case reasonably be attributed to fault or negligence on the part of the Seller and/or their employees and/or any contractor and/or professional advisor that the Seller has engaged in connection with the Specified Project and without prejudice to that generality shall include failure, Cancellation or allocation arising from poor management of the Specified Project or any failure to comply with the provisions of the Governing Code insofar as relating to the administration, establishment or ongoing management of the Specified Project;
4. **Avoidable Loss Compensation** means compensation calculated in accordance with the compensation option next to the words, "Avoidable Loss Compensation" in the Commercial Term Sheet;
5. **Buffer** means the account held in the UK Land Carbon Registry for each Governing Code, and containing contributions of Carbon Units for all projects registered under that Governing Code, to cover any unanticipated losses from individual project failures;
6. **Buffer PIU** means (for a Peatland Code Project) each of the 20% of the PIUs issued in respect of a Specified Project and (for a Woodland Carbon Code Project) each of the 20% of the PIUs issued in respect of a Specified Project;
7. **Buffer Carbon Units** means in respect of each Vintage (a) (for a Peatland Code Project) each of the 20% of the PCUs issued in respect of a Specified Project and (b) (for a Woodland Carbon Code Project) each of the 20% of the WCUs issued in respect of a Specified Project;
8. **Business Day** means any day (other than a Saturday or Sunday) on which clearing banks are open for the transaction of business in Edinburgh and London;
9. **Buyer Exclusivity** means that the Seller and the Buyer have agreed that the Buyer will have the right to acquire all of the Carbon Units in the Specified Project, as such agreement is indicated by the word "yes" next to "Buyer Exclusivity" in the Commercial Term Sheet;
10. **Buyer Maximum Liability Sum** has the meaning given to it in the Commercial Term Sheet;
11. **Cancellation** means (in relation to the Specified Project) cancellation by the Carbon Oversight Authority or administrators of the Governing Code of all or any of the PIUs that have not Verified;
12. **Carbon Unit** means a PCU or WCU;
13. **Carbon Oversight Authority** means (in relation to a Peatland Code Project) the Executive Board of the International Union for Conservation of Nature UK National Committee or any other person or organisation that, in replacement therefor, is responsible for the governance and management of the Peatland Code and (in relation to a Woodland Carbon Code Project) Scottish Forestry or any other person or organisation that, in replacement therefor, is responsible for the governance and management of the Woodland Carbon Code;
14. **Carbon Sequestration Project** means a Peatland Code Project or a Woodland Carbon Code Project;
15. **Carbon Sequestration Profile** has the meaning given to it in the Commercial Term Sheet, as the same may be amended in terms of Clause 7.9, and which shall (a) in the context of a Peatland Code Project, refer to the Contract Quantity of reduction in carbon dioxide emissions throughout the period of the Specified Project and (b) in the context of a Woodland Carbon Code Project, refer to the Contract Quantity of carbon dioxide sequestration throughout the period of the Specified Project;
16. **Change in Control Restriction** means that the Seller and the Buyer have agreed that for the purposes of the alienation provisions in this Agreement, Change in Control of the Buyer will be treated in the same manner as an assignation of the Buyer's interest in this Agreement, as such agreement is indicated by the word "yes" next to "Change in Control Restriction" in the Commercial Term Sheet;
17. **Change in Law** means:
    1. the coming into effect of any Law that is not in effect at the Effective Date;
    2. the modification, repeal or replacement of any Law after the Effective Date; and/or
    3. a change after the Effective Date in the interpretation or application by any competent authority of any Law;
18. **Change Risk Buyer** means that if the word "Buyer" is inserted next to Change Risk in the Commercial Term Sheet then the Buyer will be responsible for any proper and reasonable additional costs that the Seller incurs in complying with its obligations in this Agreement as a consequence of a Change in Law and/or a change in the Governing Code, all in terms of Clause 18;
19. **Change Risk Seller** means that if the word "Seller" is inserted next to Change Risk in the Commercial Term Sheet then the Seller will be responsible for any additional costs that the Seller incurs in complying with its obligations in this Agreement as a consequence of a Change in Law and/or a change in the Governing Code, all in terms of Clause 18;
20. **Compensation** means Avoidable Loss Compensation or Unavoidable Loss Compensation, as the case may be;
21. **Completion Payment** has the meaning given to it in the Commercial Term Sheet;
22. **Completion Payment Date** means the date that is 10 Business Days after the date that the Buyer has been notified by the Seller that the Contract Quantity of PIUs for the Specified Project have been issued and has evidenced that these are held on an account in the UK Land Carbon Registry in the name of either (i) the Seller or (ii) the project manager for the Specified Project, for the benefit of the Seller ("**the PIU Issue Date**"), declaring that (a) if Clause 7.1 applies then the Completion Payment Date shall mean the date that is 10 Business Days after the later of (i) the PIU Issue Date and (ii) the date that the Buyer has intimated its decision in terms of Clause 7.3 or the date that the Buyer has been deemed to have intimated its decision in terms of Clause 7.3; and (b) if Clause 7.4 applies then the Completion Payment Date shall mean the date that is 10 Business Days after the later of (i) the PIU Issue Date and (ii) the date that the Buyer has intimated its decision in terms of Clause 7.7 or the date that the Buyer has been deemed to have intimated its decision in terms of Clause 7.7;
23. **Contract Period** means the aggregate of the Pre-Validation Period and the Post-Validation Period;
24. **Contract Sale Units** means, for a particular Vintage, all of the Verified Sale Units;
25. **Contract Serial Numbers** means those serial numbers for PIUs in the Carbon Sequestration Profile, as listed in Part 5 of the Schedule;
26. **Contract Quantity** means the number of PIUs set out in the Commercial Term Sheet (which for the avoidance of doubt shall exclude any Buffer PIUs) as adjusted in accordance with, if applicable, Clause 7;
27. **Control** means, in relation to a body corporate, the power of a person (exclusively or in conjunction with another person) to secure that its affairs are conducted in accordance with the wishes of that person:
    1. by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate; or
    2. by virtue of any powers conferred by the articles of association or any other document regulating that or any other body corporate,

and a **“Change in Control”** shall occur if a person who Controls any company or undertaking ceases to do so, or if another person acquires Control of it;

1. **Deposit** has the meaning given to it in the Commercial Term Sheet;
2. **Dispute Resolution Procedure** means either (a) in the event that Expert Determination is chosen as the option next to Dispute Resolution Procedure in the Commercial Term Sheet, the procedure contained in Clause 33.1 or (b) in the event that Arbitration is chosen as the option next to Dispute Resolution Procedure in the Commercial Term Sheet, the procedure contained in Clause 33.2.
3. **Effective Date** means the date of Subscription of this Agreement by the last Party to Subscribe;
4. **Encumbrances** means encumbrances as set out in Section 9 of the Land Registration etc. (Scotland) Act 2012;
5. **Establishment Date** means the date on which a Validation Body issues a Validation Statement in respect of the Specified Project;
6. **Establishment Works** means(a) for a Woodland Carbon Code Project, carrying out all necessary ground preparation works and planting trees on the Project Site in accordance with (i) the UK Forestry Standard, and (ii) the conditions of any grant scheme from the relevant forestry authority and (iii) the provisions of the Governing Code insofar as required for the purpose of procuring that a Validation Statement is issued for the Specified Project, or (b) for a Peatland Code Project, carrying out all necessary surveying, mapping, restoration and management works on the Project Site in accordance with (i) the conditions of any grant scheme connected to funding for the Specified Project and (ii) the provisions of the Governing Code insofar as required for the purpose of procuring that a Validation Statement is issued for the Specified Project;
7. **Establishment Works Commencement Longstop Date** has the meaning given to it in the Commercial Term Sheet;
8. **Finance Party** means a bank, fund or institution (or any agent or security trustee on behalf of such bank, fund or institution) which provides debt funds to a Party in relation to the Specified Project;
9. **Full Refund** means a payment equivalent to all sums paid by the Buyer to the Seller pursuant to this Agreement up to the point of termination of this Agreement in terms of Clause 14.2;
10. **Full Refund Index-linked** means a payment equivalent to all sums paid by the Buyer to the Seller pursuant to this Agreement up to the point of termination of this Agreement in terms of Clause 14.2 each sum paid by the Buyer to the Seller to be Index-linked using the date of payment as a base date;
11. **Good Industry Practice** means those sound and common practices, methods, acts, techniques and standards which are prudent and in accordance with applicable and generally accepted good practice in (where the Specified Project is a Peatland Code Project) peatland management in the United Kingdom and (where the Specified Project is a Woodland Carbon Code Project) woodland planting and management in the United Kingdom;
12. **Good Validation and Verification Practice** means (in the case of peatland restoration) those sound and common practices, methods, acts, techniques and standards which are prudent and in accordance with applicable and generally accepted good practice in validating, verifying and monitoring the measurement of carbon dioxide reductions and sequestrations from peatlands in the United Kingdom and (in the case of woodland creation) those sound and common practices, methods, acts, techniques and standards which are prudent and in accordance with applicable and generally accepted good practice in validating, verifying and monitoring the measurement of carbon dioxide sequestrations from woodland creation and tree growth in the United Kingdom;
13. **Governing Code** has the meaning given to it in the Commercial Term Sheet;
14. **Group Undertaking** means a subsidiary or a holding undertaking, or another subsidiary of a holding undertaking, as subsidiary and holding undertaking are defined in section 1162 of the Companies Act 2006;
15. **Index means** (if any) the index referred to next to the word "Index" in the Commercial Term Sheet**;**
16. **Index-linked** means increased by the same percentage as the increase in the Index between the month of the Effective Date (or in substitution therefor, the base date that is referred to in the definition or clause in question) and the month for which the Index was last published prior to the month in which the relevant sum is due to be calculated of the sum expressed to be Index Linked;
17. **Insolvency Event** means in respect of a Party:
    1. an arrangement or composition with or for the benefit of creditors (including any voluntary arrangement as defined in the Insolvency Act 1986) being entered into;
    2. a receiver, administrator, administrative receiver or other encumbrancer taking possession of or being appointed (unless that appointment is discharged within 10 Business Days of appointment) over, or any distress, execution or other process being levied or enforced upon, the whole or a material part of the assets of that Party;
    3. ceasing to carry on business;
    4. a shareholders’ meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation);
    5. a petition is presented for its winding up (which is not dismissed within 10 Business Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors’ meeting is convened pursuant to section 98 of the Insolvency Act 1986; or
    6. any event analogous to those listed in limbs (a) to (e) above occurs under the law of any other jurisdiction.
18. **Landowner Project** means that the Seller in this Agreement is the heritable proprietor of the Specified Project Site, as indicated by the word "Landowner" next to "Tenure" in the Commercial Term Sheet;
19. **Landlord** means (for a Tenant Project) the landlord under the Lease, who shall be the heritable proprietor of the Specified Project Site and is named next to "Landlord" in the Commercial Term Sheet;
20. **Landowner Commitment Statement** meansa commitment statement or commitment statements in the form required in terms of the Governing Code and relating to the Specified Project, Subscribed (a) in the case of a Landowner Project, by the Seller or (b) in the case of a Tenant Project, by the Landlord and the Seller;
21. **Law** means any Act of Parliament, any subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, in each case in the United Kingdom and (to the extent directly binding on and/or enforceable against private persons within the United Kingdom) any obligations arising from a treaty or international convention to which the United Kingdom is a signatory;
22. **Lease** means (for a Tenant Project) the lease of the Specified Project Site between the Landlord as landlord and the Seller as tenant;
23. **Liabilities** means all liabilities, expenses, damages and losses (excluding indirect or consequential losses and loss of profit) and all interest, penalties and legal and other professional expenses suffered or incurred by a Party in connection with a claim made against the other Party;
24. **Longstop Dates** means (if any) the Registration Longstop Date and/or (if any) the Validation Longstop Date and/or (if any) the Establishment Works Commencement Longstop Date, and "**Longstop Date**" shall mean any or either of them;
25. **Market Value** means the market value (based on market evidence of trading values for Carbon Units or PIUs as appropriate for projects similar to the Specified Project) for individual Carbon Units and PIUs as agreed between the parties or, in the absence of agreement, determined in accordance with the terms of Clause 33;
26. **Market Value Compensation** means the Market Value for all Carbon Units included within the Contract Quantity for a particular Verification under deduction of the Market Value for all Verified Sale Units that have been Verified as part of that Verification, as said Market Value shall be assessed as at the particular Verification or, in the event valuation is required at the point of Cancellation of PIUs forming part of future Vintages, as at the date of Cancellation;
27. **New Credit** means a credit, benefit, relief, deductible or certificate that has a financial value, or may be exchanged for financial value, which is not a Carbon Unit or a PIU and which (a) derives from the Specified Project or (b) is otherwise generated from activity carried out on the Specified Project Site by the Seller or any third party, and which would include natural capital codes (whether such natural capital code exists as at the Effective Date or is created during the Contract Period) including, but not limited to, biodiversity credits, soil carbon credits, water quality, agroforestry or any other nature or environmental based opportunity;
28. **Nominated Bank** means the bank named next to the words "Nominated Bank" in the Commercial Term Sheet;
29. **No Seller Fault** means failure by the Seller to comply with their obligations under this Agreement as a consequence of circumstances outwith the Seller's reasonable control, lack of funds not being deemed to be a circumstance outwith the Seller's reasonable control;
30. **No Seller Fault Payment** means a payment calculated in accordance with the option next to the words, "No Seller Fault Payment" in the Commercial Term Sheet;
31. **Overdelivered Unit Price (Validation)** means either (a) where the option in the Commercial Term Sheet next to the entry "Overdelivered Unit Price" is "Unindexed Unit Price", the Unit Price for PIUs relating to a particular Vintage as reflected in the Commercial Term Sheet; or (b) where the option in the Commercial Term Sheet next to the entry "Overdelivered Unit Price" is "Indexed Unit Price", the Unit Price Index-linked for PIUs relating to a particular Vintage as reflected in the Commercial Term Sheet; or (c) where the option in the Commercial Term Sheet next to the entry "Overdelivered Unit Price" is "Market Value", the Market Value for individual PIUs relating to a particular Vintage as at the date of Validation of the Specified Project;
32. **Overdelivered Unit Price (Verification)** means either (a) where the option in the Commercial Term Sheet next to the entry "Overdelivered Unit Price" is "Unindexed Unit Price", the Unit Price for Carbon Units within that Vintage as reflected in the Commercial Term Sheet; or (b) where the option in the Commercial Term Sheet next to the entry "Overdelivered Unit Price" is "Indexed Unit Price", the Unit Price Index-linked for Carbon Units within that Vintage as reflected in the Commercial Term Sheet; or (c) where the option in the Commercial Term Sheet next to the entry "Overdelivered Unit Price" is "Market Value", the Market Value for each Carbon Unit within that Vintage as at the Vintage End Date.
33. **Party** means the Buyer or the Seller as the context requires;
34. **Peatland Code Project** means a project for the restoration and maintenance of a degraded peatland and which has been, or is intended to be, Registered under the Peatland Code;
35. **Peatland Carbon Unit** or **PCU** means each unit specified on a Verification Statement, representing a reduction in carbon dioxide emissions of one tonne, from a Specified Project that is a Peatland Code Project;
36. **Peatland Code** means the code of that name administered by the Executive Board of International Union for Conservation of Nature UK National Committee published in October 2024 Version 2.1 as amended or replaced from time to time insofar as affecting the Specified Project;
37. **Pending Issuance Unit** or **PIU** means each unit specified on a Validation Statement, representing the anticipated future sequestration of one tonne of carbon dioxide, or anticipated future reduction in carbon dioxide emissions of one tonne, from a Specified Project;
38. **Post-Completion Payment** has the meaning given to it in the Commercial Term Sheet;
39. **Pre-Validation Period** means the period commencing on the Effective Date and ending on the day prior to the Establishment Date;
40. **Post-Validation Period** means the part of the Contract Period stated in the Commercial Term Sheet as includes the period that commences on the Establishment Date;
41. **Reimbursement** means (for each Vintage) a sum equivalent to the aggregate of all payments that have been made pursuant to this Agreement by the Buyer to the Seller, and that whether as part of the Deposit and/or the Completion Payment, in whole or part payment for those PIUs that are part of the Contract Quantity of PIUs for the Vintage but which (a) have not been Verified and transferred/assigned to the Buyer's account in accordance with the provisions of Clause 8 as part of a current Verification process or (b) relate to a future Vintage and will not be Verified due to Cancellation of corresponding PIUs ;
42. **Reimbursement Index-linked** means (for each Vintage) a sum equivalent to the aggregate of all payments that have been made pursuant to this Agreement by the Buyer to the Seller, and that whether as part of the Deposit and/or the Completion Payment, in whole or part payment for those PIUs that are part of the Contract Quantity of PIUs for that Vintage but which (a) have not been Verified and transferred/assigned to the Buyer's account in accordance with the provisions of Clause 8 as part of a current Verification process or (b) relate to a future Vintage and will not be Verified due to Cancellation of corresponding PIUs, each of which payments shall be Index-linked from the date that payment was made by the Buyer to the Seller;
43. **Registration** means the registration of the Specified Project under and in accordance with the terms of the Governing Code and **Registered** shall be construed accordingly;
44. **Registration Longstop Date** has the meaning given to it in the Commercial Term Sheet;
45. **Restoration Validation Certificate** meansa certificate issued by a Validation Body that states the amount of expected emission reductions;
46. **Schedule** means the schedule annexed and executed as relative hereto;
47. **Secured Contract** means that the Seller and the Buyer have agreed that the Buyer will acquire a standard security over the Specified Project Site and that the provisions of Clause 13 will apply to this Agreement, as such agreement indicated by the word "yes" next to "Secured Contract" in the Commercial Term Sheet;
48. **Seller Fault** means failure by the Seller to comply with their obligations under this Agreement as a consequence of negligence or deliberate act or omission on the part of the Seller, but excluding failures arising as a consequence of No Seller Fault;
49. **Seller Fault Payment** means a payment calculated in accordance with the option next to the words, " Seller Fault Payment" in the Commercial Term Sheet;
50. **Seller Maximum Liability Sum** has the meaning given to it in the Commercial Term Sheet;
51. **Specified Project** means the Peatland Code Project or the Woodland Carbon Code Project specified in the Commercial Term Sheet, the detailed project design documents for which are contained in Part 2 of the Schedule;
52. **Specified Project Cover** means (where the Specified Project is a Woodland Carbon Code Project) insurance cover that is sufficient to cover the costs of restocking (with trees equivalent in number and species to those forming part of the Specified Project) any afforested area that has been destroyed or materially damaged by fire or storm, but only to the extent that such insurance cover is and continues to be available at a premium that the Seller, acting reasonably, considers to be reasonable;
53. **Specified Project Site** has the meaning given to the term "Project Site" in the Commercial Term Sheet;
54. **Specified Rate** meansfour per cent per year above the base rate from time to time of the Nominated Bank (or such other bank as the parties (acting reasonably) may from time to time agree) or (if base lending rates cease to be published) such other comparable rate of interest as the parties (acting reasonably) agree;
55. **Standard Security** means a standard security over the Specified Project Site in terms of the draft standard security contained in Part 4 of the Schedule, completed to insert details of the Buyer, the Seller and a conveyancing description of the Specified Project Site;
56. **Subscribed** means in relation to any document that such document is subscribed so that the document shall be presumed to have been subscribed by the grantor of it for the purposes of sections 3 and/or 7 of, and/or Schedule 2 to, the Requirements of Writing (Scotland) Act 1995, and "**Subscribe**" and "**Subscription**" shall be construed accordingly;
57. **Tenant Project** means that the Seller in this Agreement is the tenant of the Specified Project Site, as indicated by the word "Tenant" next to "Tenure" in the Commercial Term Sheet;
58. **UK Accreditation Service** means the United Kingdom Accreditation Service or, in substitution therefor, any replacement accreditation body recognised by the British Government to assess the competence of organisations that provide certification, testing, inspection and calibration services;
59. **UK Land Carbon Registry** means the electronic database that stores and publicly displays data about the status of projects and ownership and use of Carbon Units for Carbon Sequestration Projects located in the United Kingdom;
60. **UK Forestry Standard** means the guidance which sets out the UK government's approach to sustainable forestry, including standards and requirements, regulations and monitoring, and reporting and the reference standard for sustainable forest management across the UK published in 2023 as amended or replaced from time to time;
61. **Unavoidable Loss** means either (a) a failure to Verify the Contract Quantity or (b) Cancellation of any PIUs forming part of the Contract Quantity or (c) any of the Verified Sale Units being allocated to the Buffer, that in each case cannot reasonably be attributed to fault or negligence on the part of the Seller and/or their employees and/or any contractor and/or professional advisor that the Seller has engaged in connection with the Specified Project and without prejudice to that generality shall include failure/reversal arising from an event, or a series of related events, that is outside the reasonable control of the Seller (including but not limited to (and subject always to the proviso that the event in question has not resulted from fault or negligence on the part of the Seller and/or their employees and/or any contractor and/or professional advisor that the Seller has engaged in connection with the Specified Project), industrial disputes affecting any third party, Change in Law, disasters, tree pest and disease, explosions, fires, floods, storms and hurricanes, riots, terrorist attacks and war whether declared or not) and shall exclude Avoidable Loss;
62. **Unavoidable Loss Compensation** means compensation calculated in accordance with the compensation option next to the words, "Unavoidable Loss Compensation" in the Commercial Term Sheet;
63. **Validation** means the initial evaluation of the Specified Project against the requirements of the Governing Code by a Validation Body, and issuance of a Validation Statement;
64. **Validation Body** means any person approved by the UK Accreditation Service to validate carbon dioxide emissions reductions from, or carbon dioxide sequestrations by, Carbon Sequestration Projects;
65. **Validation Statement** means a statement issued by a Validation Body in accordance with the Governing Code that (i) certifies the quantity of carbon dioxide forecast to be sequestered by a Carbon Sequestration Project or the quantity of carbon dioxide emissions forecast to be reduced by a Carbon Sequestration Project and (ii) specifies the number of PIUs to which the holder of the statement is entitled and that for a Peatland Code Project means a Restoration Validation Certificate ;
66. **Validation Longstop Date** has the meaning given to it in the Commercial Term Sheet;
67. **VAT** meansvalue added tax as provided under the VATA;
68. **VATA** means Value Added Tax Act 1994 and references to the VATA shall include all statutes, laws, regulations, notices, directions or similar provisions, relating to value added tax and any value added, turnover, sales, purchase or similar tax having effect in the United Kingdom or any other jurisdiction relevant to the parties in this Contract and references to value added tax or to VAT shall be construed accordingly;
69. **Verification** means the ongoing evaluation by the Verification Body of the Specified Project against the requirements of the Governing Code, to assess the quantity of carbon dioxide estimated to have been sequestered by the Specified Project or the quantity of carbon dioxide emissions estimated to have been reduced by the Specified Projectand, in relation to a Woodland Carbon Code Project, compliance with the UK Forestry Standard and **"Verified"** shall be construed accordingly;
70. **Verification Body** means (in relation to a Peatland Code Project) any person approved by the UK Accreditation Service to verify carbon dioxide reductions or sequestrations in restored peatlands and (in relation to a Woodland Carbon Code Project) any person approved by the UK Accreditation Service to verify carbon dioxide sequestrations from woodlands;
71. **Verification Frequency** means the frequency referred to in the Commercial Term Sheet next to the words, "Verification Frequency";
72. **Verification Payment** has the meaning given to it in the Commercial Term Sheet;
73. **Verification Statement** means a statement issued by a Verification Body in accordance with the Governing Code that (i) certifies the quantity of carbon dioxide estimated to have been sequestered by a Carbon Sequestration Project and/or the quantity of carbon dioxide emissions estimated to have been reduced by a Carbon Sequestration Project during a Vintage and (ii) specifies the number of Carbon Units issued as a consequence of such sequestration and/or reduction;
74. **Verified Sale Units** means, for a particular Vintage, the Carbon Units shown on the Verification Statement that relate to the Contract Serial Numbers as adjusted in accordance with, if applicable, Clause 8;
75. **Vintage** meansa period of time in the Contract Period in which a pre-determined number of PIUs are forecasted to be Verified as the same are specified in the Validation Statement and as may be amended in subsequent Verification Statements, the original Vintages for the Specified Project being as listed in the definition of Carbon Sequestration Profile in the Commercial Term Sheet, and "**Vintages**" shall be construed accordingly;
76. **Vintage End Date** means the last day of each Vintage during the Contract Period;
77. **Woodland Carbon Code** means the code of that name administered by Scottish Forestry published in April 2022, edition number 2.2 as amended or replaced from time to time; insofar as affecting the Specified Project;
78. **Woodland Carbon Code Project** means a project for the establishment and maintenance of a woodland and which has been, or is intended to be, Registered under the Woodland Carbon Code; and
79. **Woodland Carbon Unit** or **WCU** means each unit specified on a Verification Certificate, representing the sequestration of one tonne of carbon dioxide, or a reduction in carbon dioxide emissions of one tonne, from a Specified Project that is a Woodland Carbon Project.
80. Interpretation
    1. Clause headings shall not affect the interpretation of this Agreement.
    2. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
    3. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
    4. Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
    5. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
    6. This Agreement shall be binding on, and enure to the benefit of, the Parties to this agreement and their respective personal representatives, successors and permitted assignees, and references to any Party shall include that party's personal representatives, successors and permitted assignees.
    7. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
    8. A reference to writing or written includes email.
    9. Any obligation on a Party not to do something includes an obligation not to agree that thing to be done.
    10. A reference to this Agreement or to any other agreement or document referred to in this Agreement is a reference to this Agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this Agreement) from time to time.
    11. References to clauses are to the clauses of this Agreement.
    12. Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
81. Contract Period

This Agreement shall come into effect on the Effective Date and continue until the expiry of the Contract Period unless terminated earlier in accordance with its terms.

1. Sale and Purchase
   1. Subject to the terms of this Agreement, the Seller agrees to sell, and the Buyer agrees to buy, the Contract Quantity of PIUs during the Term in accordance with this Agreement.
   2. The Deposit (if any) shall be paid by the Buyer to the Seller in the manner referred to in the Commercial Term Sheet.
   3. On the Completion Payment Date the Buyer shall pay the Completion Payment (as the same may be amended pursuant to Clause 7) to the Seller, in exchange for the Contract Quantity of PIUs being transferred to the Buyer's account at the UK Land Carbon Registry, or assigned to the Buyer, all in terms of Clause 4.4.
   4. The Seller shall transfer the Contract Quantity of PIUs to the Buyer on the Completion Payment Date, in exchange for payment of sums due under Clause 4.3, such transfer to be effected by either (a) transferring the Contract Quantity of PIUs to the Buyer's account at the UK Land Carbon Registry or (b) (where the Buyer does not have an account at the UK Land Carbon Registry) assigning the Contract Quantity of PIUs to the Buyer and noting on the Seller's account at the UK Land Carbon Registry (or the account of the project manager appointed by the Seller, if appropriate) that they are being held for the benefit of the Buyer. The Seller shall notify the Buyer within 5 Business Days of the PIU Issue Date that the Specified Project has been Validated and the Buyer shall notify the Seller within 5 Business Days of such notification whether the transfer of the Contract Quantity of PIUs should be effected by option (a) or (b) of this Clause, and in the absence of such notification the Seller shall be entitled to proceed with option (b), but that without prejudice to the Buyer's future entitlement to require the Seller to transfer such Contract Quantity of PIUs to the Buyer's account at the UK Land Carbon Registry, which transfer shall be effected at any time during the Post-Validation Period, within 10 Business Days of the date of the Seller being notified that the Buyer has an account at the UK Land Carbon Registry and has been provided with details thereof as are required for the Seller to complete such transfer.
   5. The Seller shall sell the PIUs with full title guarantee and as beneficial owner free from all liens, encumbrances and third-party claims.
   6. The Seller shall not sell, transfer, encumber, declare a trust over, or grant a lien or other security interest over, any of the Contract Quantity of the PIUs relating to the Specified Project, or agree to do any of the foregoing, at any time before the transfer of the Contract Quantity of PIUs to the Buyer has been recognised in the UK Land Carbon Registry.
   7. Any part of the Post-Completion Payment which does not comprise Verification Payments shall be paid by the Buyer to the Seller in the manner referred to in the Commercial Term Sheet.
   8. Each Party shall pay interest at the Prescribed Rate on any sums due to the other Party in terms of this Agreement which is not paid within 10 Business Days of the due date for payment, such interest to run from the due date for payment until payment is made.
2. Project Registration
   1. In the event that it has not already done so and before commencing any Establishment Works the Seller shall apply for Registration of the Specified Project in the name of the Seller with a Carbon Oversight Authority and that as soon as reasonably practicable after the Effective Date and in any event before the Registration Longstop Date (if any) and shall timeously complete all documentation as may reasonably be required to achieve that Registration in compliance with the Governing Code and at the Seller's sole cost;
   2. The Seller shall ensure that the name of each Specified Project appears on the UK Land Carbon Registry.
   3. The Seller shall confirm to the Buyer the date on which the Specified Project has been Registered and shall notify such Registration to the Buyer as soon as reasonably practicable after the Specified Project has been Registered and in any event within 10 Business Days of Registration, and in the event that the application for Registration is rejected for any reason then the Seller shall notify the Buyer of that as soon as reasonably practicable after such rejection and in any event within 10 Business Days thereof, along with details of the reason for such rejection and the Seller's proposals for addressing those as part of its re-application. Rejection of an application for Registration shall not affect the Seller's obligations under this Clause 5.
   4. The Seller shall be responsible for meeting all costs and expenses relating to Registration of the Specified Project, and maintenance of that Registration, with the Verification Body. The Seller shall be prohibited from taking any action that will result in the cancellation or reversal of such Registration, unless this Agreement has been terminated.
   5. Other than the Specified Project the Seller shall not apply for, and shall not permit any third party to apply for, Registration of a Carbon Sequestration Project on any land that forms part of a Specified Project Site.
   6. Subject to Clause 5.7, if the Seller has not evidenced to the Buyer that the Specified Project has been Registered on or before the Registration Longstop Date, the Buyer may (subject to and in terms of Clause 14.3) terminate this Agreement.
   7. The Buyer may not terminate the Agreement in terms of Clause 5.6 (but without prejudice to the rights of the Buyer in terms of the remainder of this Agreement) after the Specified Project has been Registered.
   8. If this Agreement is terminated under Clause 5.6, it shall cease to have any further effect without any compensation or other liability being due to either Party other than (a) in respect of any breach of the Agreement arising prior to the termination and (b) in terms of Clause 15.
3. Project Validation
   1. In the event that a Validation Statement has not been issued in respect of the Specified Project as at the Effective Date the Seller shall take all steps reasonably necessary and at its own cost to procure that a Validation Statement is issued in respect of the Specified Project, and that as soon as reasonably practicable after completion of the Establishment Works in accordance with the provisions of Clause 11 and in accordance with the provisions of the Governing Code and in any event before the Validation Longstop Date (if any).
   2. The Seller shall at its own cost comply with all guidance and requirements contained in the Governing Code insofar as relating to the process of Validation, including without prejudice to that generality, guidance and requirements relating to appointment of a Validation Body, preparation and completion of documents and supporting evidence, instructing and completing surveys and responding to (and complying with) requests from the Validation Body and/or Carbon Oversight Authority for further information, clarification or corrective actions. The Seller shall provide the Buyer with regular updates at least quarterly or at such other frequency as the Parties shall agree on its progress in procuring that a Validation Statement is issued in respect of the Specified Project
   3. The Seller shall confirm to the Buyer the date on which each Validation Statement is issued and shall evidence to the Buyer as soon as reasonably practicable after a Validation Statement has been issued (such evidence to include evidence of the Validated Units) and in any event within 10 Business Days of issuance and in the event that the request for Validation is rejected for any reason then the Seller shall notify the Buyer of that as soon as reasonably practicable after such rejection and in any event within 10 Business Days thereof, along with details of the reason for such rejection and the Seller's proposals for addressing those as part of its re-application. Rejection of a request for Validation shall not affect the Seller's obligations under this Clause 6.
   4. Subject to Clause 6.5, if the Seller has not evidenced to the Buyer that a Validation Statement has been issued (such evidence to include evidence of the Validated Units) in respect of a Specified Project on or before the Validation Longstop Date, the Buyer may (subject to and in terms of Clause 14.3) terminate this Agreement.
   5. The Buyer may not terminate this Agreement in terms of Clause 6.4 (but without prejudice to the rights of the Buyer in terms of the remainder of this Agreement) after the Validation Certificate for the Specified Project has been issued.
   6. If this Agreement is terminated under Clause 6.4, it shall cease to have any further effect and no compensation or other liability shall be due to either Party other than (a) in respect of any breach of the Agreement arising prior to the termination and (b) in terms of Clause 15.
4. Post-Validation Adjustment
   1. Without prejudice to the Seller's obligations in terms of Clause 6, if the Validation of the Specific Project results in a Validation Statement being issued in respect of a number of PIUs (in this Clause 7, "**the Validated Units**", and which shall not include any Buffer Carbon Units) that is fewer than the number of PIUs in the Contract Quantity, and reflected in the Carbon Sequestration Profile, then Clause 7.2 and Clause 7.3 shall apply.
   2. If the Validated Units are fewer than the Contract Quantity as reflected in the Carbon Sequestration Profile, then the Buyer shall be entitled to:
      1. (subject to and in terms of Clause 14) terminate this Agreement but only if the number of Validated Units relating to a particular Vintage or Vintages is fewer than the Minimum Threshold of the forecasted number of PIUs in the Contract Quantity relating to that Vintage or Vintages, as reflected in the Carbon Sequestration Profile; or
      2. proceed with the purchase of the Validated Units, in which event the Price for the Contract Quantity relating to each Vintage shall be reduced by an amount equivalent to the sum of the formula "C multiplied by (D-E)", where "C" is the Unit Price for Carbon Units within that Vintage as reflected in the Commercial Term Sheet, "D" is the number of forecasted Carbon Units in the Contract Quantity for that Vintage, as reflected in the Carbon Sequestration Profile and "E" is the number of Validated Units for that Vintage as reflected in the Validation Statement.
   3. If there is a Minimum Threshold then within 20 Business Days of receipt of a Validation Statement that reflects the terms of Clause 7.1 the Buyer shall intimate to the Seller whether it will be exercising its option in terms of either Clause 7.2.1 or 7.2.2 and if it fails to do so then it shall be deemed to be exercising its option in terms of Clause 7.2.2, in which event the definition of "Price" in the Commercial Term Sheet shall be amended to the sum calculated in accordance with Clause 7.2.2, and the definition of "Contract Quantity" and " Carbon Sequestration Profile" in the Commercial Term Sheet shall be amended to reflect the terms of the Validation Statement.
   4. If the Validation of the Specific Project results in a Validation Statement being issued in respect of a number of PIUs relating to any particular Vintage or Vintages that is greater than the number of Carbon Units in the Contract Quantity, and reflected in the Carbon Sequestration Profile, then Clause 7.5, Clause 7.6 and Clause 7.7 shall apply.
   5. If the Validated Units relating to any particular Vintage or Vintages are greater than the Contract Quantity as reflected in the Carbon Sequestration Profile and there is no Buyer Exclusivity, then the Seller shall be entitled to:
      1. Retain (or at its option sell to another party or parties) any excess of Validated Units over and above the Contract Quantity; or
      2. Offer to sell to the Buyer all or any of Validated Units over and above the Contract Quantity (such Validated Units over and above such Carbon Quantity as the Seller offers to sell being referred to in this Clause 7.5.2 and Clause 7.6 as "**the Additional Sale PIUs**") and if the Buyer accepts that offer in terms of Clause 7.7 then the Price for the Contract Quantity relating to a particular Vintage shall be increased by an amount equivalent to the sum of the formula "F" multiplied by "G", where "F" is the number of Additional Sale PIUs and "G" is the Overdelivered Unit Price (Validation) for PIUs relating to a particular Vintage as reflected in the Commercial Term Sheet.
   6. If the Validated Units relating to any particular Vintage or Vintages are greater than the Contract Quantity as reflected in the Carbon Sequestration Profile and there is Buyer Exclusivity, then the Seller shall be required to offer to sell to the Buyer the Additional Sale PIUs and if the Buyer accepts that offer in terms of Clause 7.7 then the Price for the Contract Quantity within each Vintage shall be increased by an amount equivalent to the sum of the formula "F" multiplied by "G", where "F" is the number of Additional Sale PIUs and "G" is the Overdelivered Unit Price (Validation) for PIUs relating to a particular Vintage as reflected in the Commercial Term Sheet:

Within 20 Business Days of receipt of an offer to sell in terms of Clause 7.5.2 or Clause 7.6 the Buyer shall intimate to the Seller whether it will be accepting that offer to sell and if it fails to do so then it shall be deemed to be declining the offer to sell.

If the Price decreases in accordance with Clause 7.3 and this results in the sum payable by the Buyer in terms of Clause 4.3 being a negative sum then no payment shall be due by the Buyer in terms of Clause 4.3, and instead the Seller shall pay to the Buyer on the Completion Payment Date a sum equivalent to that sum.

If a Validation Statement has not been issued in respect of the Specified Project as at the Effective Date and the Validation of the Specific Project results in a Validation Statement being issued in respect of a number of PIUs that is different to the number of PIUs in the Contract Quantity then the Carbon Sequestration Profile shall be adjusted to reflect the terms of the Validation Statement, and the Parties shall act reasonably to document as between them (a) the adjusted Carbon Sequestration Profile and (b) the serial numbers of the Contract Quantity of PIUs, and that as soon as reasonably practicable after Validation of the Specified Project and in any event within 30 Business Days of Validation.

1. Project Verification
   1. The Seller undertakes at its own cost to timeously comply with all obligations of the Governing Code insofar as relating to Verification in accordance with the Verification Frequency, including without prejudice to that generality any and all obligations relating to initiation of the Verification Process, surveying of the Specified Project Site, timeously providing any and all documentation and information requested by the Verification Body in relation to the Specified Project and timeously fulfilling any corrective actions identified by the Verification Body.
   2. Insofar as any of the Contract Quantity is intended to be Verified at a particular Verification the Seller shall consult with the Buyer, and keep the Buyer appraised, in relation to all matters referred to in Clause 8.1 and shall have due regard to the Buyer’s reasonable representations in relation to such matters, including providing copies of any correspondence or documentation as the Seller, acting reasonably, considers that the Buyer ought to be provided with in fulfilment of the Seller's obligations in terms of this Clause 8.2 or as shall be reasonably requested by the Buyer.
   3. Insofar as any of the Contract Quantity is intended to be Verified at a particular Verification the Seller shall evidence to the Buyer as soon as reasonably practicable after a Verification Statement has been issued (and in any event within 10 Business Days of issuance) the Carbon Units that have been delivered within the Vintage that the Verification relates to, the date of the Buyers receipt of all such evidence being "**the Date of Receipt**" for the purpose of this Clause 8;
   4. If at any Verification relating to the Contract Quantity the number of Verified Sale Units is fewer than the Contract Quantity allocated to that Vintage as reflected in the Carbon Sequestration Profile then (without prejudice to the Buyer's rights and Seller's obligations in terms of Clause 9) and
      1. if this is as a consequence of Avoidable Loss then the Seller shall pay to the Buyer the Avoidable Loss Compensation; or
      2. if this is as a consequence of Unavoidable Loss then the Seller shall pay to the Buyer the Unavoidable Loss Compensation.

Payment of any Compensation shall be effected in terms of the provisions of Clause 8.10 and shall be without prejudice to the Buyer's liability to pay the Verification Payment in respect of Verified Sale Units;

* 1. If Clause 8.4 applies in relation to a particular Vintage then the Seller shall have the option of issuing Carbon Units from the Specified Project for that Vintage to the Buyer (in this Clause 8, "**the Additional Verified Units**") that are in addition to the Verified Sale Units, all in order to meet all or part of the shortfall. In the event that this Clause 8.5 applies (a) the Verified Sale Units shall, for the purpose of Clause 8.4, include the Additional Verified Units and (b) the Seller shall (i) take all steps necessary to transfer the Additional Verified Units to the Buyer, and shall procure that the Additional Verified Units appear on the Buyer's account at the UK Land Carbon Registry or (ii) (where the Buyer does not have an account at the UK Land Carbon Registry) assign the Additional Verified Units to the Buyer and note on the Seller's account at the UK Land Carbon Registry (or the account of the project manager appointed by the Seller, if appropriate) that they are being held for the benefit of the Buyer.
  2. If there is Buyer Exclusivity and at any Vintage the number of Carbon Units certified in the Verification Statement is greater than the Contract Quantity for that Vintage as reflected in the Carbon Sequestration Profile (in this Clause 8 the Carbon Units over and above the Contract Quantity for that Vintage as reflected in the Carbon Sequestration Profile being referred to as "**the Excess Verified Units**") then the Buyer shall be entitled to purchase any or all of the Excess Verified Units (the Carbon Units acquired being referred to as "**the Acquired Excess Verified Units**") , and that by notifying the Seller of its wish to purchase the Excess Verified Units (or the number that it wishes to acquire in the event that it only wishes to purchase a proportion of the Excess Verified Units) within 20 Business Days of the Date of Receipt, as defined in Clause 8.3;
  3. If the Buyer either (a) notifies the Seller that it does not wish to acquire the Excess Verified Units or any of them in terms of Clause 8.6 or (b) fails to notify the Seller of its decision within the timescale set out in Clause 8.6 then, save as otherwise agreed between the Parties, the Buyer shall have no further right to acquire the Excess Verified Units or any of them and the Seller shall be entitled to retain or dispose of the Excess Verified Units as the Seller may decide;
  4. In the event that the Buyer has, in terms of Clause 8.6, notified the Seller of its decision to acquire the Excess Verified Units or any of them then (a) the Price shall increase by a sum equivalent to the Overdelivered Unit Price (Verification) for each of the Acquired Excess Verified Units, such increase to be paid in accordance with the provisions of Clause 8.10 and (b) in exchange therefor, the Seller shall (i) take all steps necessary to transfer the Acquired Excess Verified Units to the Buyer, and shall procure that the Acquired Excess Verified Units appear on the Buyer's account at the UK Land Carbon Registry or (ii) (where the Buyer does not have an account at the UK Land Carbon Registry) assign the Additional Verified Units to the Buyer and note on the Seller's account at the UK Land Carbon Registry (or the account of the project manager appointed by the Seller, if appropriate) that they are being held for the benefit of the Buyer.
  5. If as a consequence of any Verification during the Contract Period the Carbon Sequestration Profile is reassessed and PIUs forming part of the Contract Quantity and relating to future Vintages within the Contract Period are cancelled (including being marked as "not delivered") then Compensation shall be payable by the Seller to the Buyer for all cancelled PIUs forming part of the Contract Quantity, in respect of all future Vintages as reflected in the Commercial Term Sheet and
     1. if this is as a consequence of Avoidable Loss then the Seller shall pay to the Buyer the Avoidable Loss Compensation; or
     2. if this is as a consequence of Unavoidable Loss then the Seller shall pay to the Buyer the Unavoidable Loss Compensation.

If this Clause 8.9 applies then payment of Compensation shall be effected in terms of the provisions of Clause 8.10.

* 1. The following provision shall apply in relation to payment of sums due by the Buyer to the Seller at each Verification:
     1. within 10 Business Days of the Date of Receipt, and subject always to any payments due to or by either party in terms of this Clause 8.10, the Buyer shall pay the Verification Payment (if any) to the Seller;
     2. a sum equivalent to any Compensation due by the Seller to the Buyer in terms of Clause 8.4 shall be deducted from the sum payable by the Buyer to the Seller in terms of Clause 8.10.1;
     3. a sum equivalent to any sum due by the Buyer to the Seller in terms of Clause 8.9 shall be added to the sum payable by the Buyer to the Seller in terms of Clause 8.10.1;
     4. a sum equivalent to any Compensation due by the Seller to the Buyer in terms of Clause 8.9 shall be deducted from the sum payable by the Buyer to the Seller in terms of Clause 8.10.1; and
     5. if the net effect of Clause 8.10.1 to 8.10.4 is that a payment is due by the Seller to the Buyer then that sum shall be due by the Seller to the Buyer within 10 Business Days of the Date of Receipt.

1. Failure

In the event of Cancellation of all of the PIUs that have not Verified then either Party may (subject to and in terms of Clause 14.3) terminate this Agreement.

1. Warranties
   1. The Seller warrants as follows:
      1. where the Specified Project is a Landowner Project, the Seller (a) is the heritable proprietor of the Specified Project Site and has a valid and marketable title to the Specified Project Site unencumbered by any lease interest or third party right of occupation which may be prejudicial to the Specified Project and (b) either has a valid and marketable title to the Ancillary Lands or has sufficient servitude rights over the Ancillary Lands as are required to carry out all aspects of the Specified Project;
      2. where the Specified Project is a Tenant Project (a) the Seller has the Tenant's interest under a Lease and (b) the Landlord either has a valid and marketable title to the Ancillary Lands or has sufficient servitude rights over the Ancillary Lands as are required to carry out all aspects of the Specified Project and the Lease confers on the Tenant the ability to exercise said servitude rights;
      3. the Seller has delivered to the Buyer a copy of the Landowner Commitment Statement and confirmed that the Landowner Commitment Statement has been delivered to the secretariat of the Governing Code else will do so prior to Validation;
      4. there are no Encumbrances or third party rights affecting the Specified Project Site or Ancillary Lands and which may be prejudicial to the Specified Project save for (a) any rights the public and/or public authorities may have over the Specified Project Site or Ancillary Lands under the Land Reform (Scotland) Act 2003 (b) any rights which statutory undertakers may have in respect of any pipes, cables or similar conduits and ancillary equipment in terms of their statutory rights and (c) any rights set out or referred to in the titles to the Specified Project Site or Ancillary Lands, but that without prejudice to the Seller's obligations in terms of Clause 10.1.5 ; and
      5. where any third party authority or consent (including consent from a heritable creditor of the Specified Project Site) is required for the Seller to enter into the Contract or comply with any of the obligations incumbent on it in terms of this Agreement or implement the Specified Project in accordance with Clause 11, then such consent has been obtained in writing and exhibited to the Buyer.
   2. The Buyer warrants as follows:
      1. where any third party authority or consent is required for the Buyer to enter into the Contract or comply with any of the obligations incumbent on it in terms of this Agreement, then such consent has been obtained in writing and exhibited to the Seller
2. Project Implementation
   1. The Seller undertakes to undertake, administer and manage the Specified Project for the whole Contract Period in compliance with Good Industry Practice and Good Validation and Verification Practice and the provisions of the Governing Code and, where the Specified Project is a Woodland Carbon Code Project, the UK Forestry Standard and, will employ at their own cost such professional and/or expert assistance as may reasonably be required from time to time in order to meet these obligations. The Seller will provide the Buyer with details of any project managers appointed from time to time in connection with the Specified Project and, on request, copies of any contracts and agreements entered into with such project managers;
   2. The Seller shall meet with the Buyer as reasonably required in respect of the ongoing monitoring of the Specified Project, such meetings to be not less than once in any 12 month period during the first five years of the Contract Period and not less than once in any 36 month period thereafter. Written minutes together with confirmation of any agreed actions and compliance shall be maintained of each meeting. In the event that the Buyer reasonably considers that any actions are required on the part of the Seller to meet ongoing compliance with Clause 11.1 or to address any failure to comply with Clause 11.1, the Landowner shall implement such reasonable remedial actions on request
   3. Where the Seller requires to report a loss event affecting the Specified Project to the Carbon Oversight Authority in accordance with their obligations under the Governing Code and that affects the Contract Quantity they shall simultaneously notify the Buyer and shall keep the Buyer updated in relation to further communications and actions relative thereto
   4. Where the Specified Project is a Woodland Carbon Code Project the Seller undertakes to not fell or remove any trees from the Specified Project Site other than as reflected in the Project Design Documents and which will not affect the trees relating to the Contract Quantity, the Verified Sales Units or the Acquired Excess Verified Units;
   5. The Seller undertakes not to make any other use of the Specified Project Site, where that use may adversely impact upon the performance of the Specified Project and/or would constitute a breach of the Governing Code;
   6. The Seller undertakes to comply with the terms and conditions of any grant scheme contract that has been entered into by the Seller in respect of the Specified Project or any part thereof, and to provide the Buyer with a copy of such contract if so requested, and furthermore shall make the Buyer aware of any alleged or actual breaches of such terms and conditions and correspondence relative thereto with the grant body or administrator, and shall take such steps at its own cost as are required to remedy any such breaches
   7. The Seller undertakes not to grant any third party rights over the Specified Project Site, where the exercise of such rights may adversely impact upon the performance of the Specified Project insofar as affecting the Contract Quantity and/or would constitute a breach of the Governing Code, and in the event that the Seller proposes to grant rights over the Specified Project Site to any third party then :
      1. subject to Clause 11.7.2, prior to granting such rights the Seller shall require to obtain the written consent of the Buyer, not to be unreasonably withheld or delayed if the Seller can demonstrate to the Buyer's reasonable satisfaction that the exercise of such rights will not adversely impact upon the performance of the Specified Project insofar as affecting the Contract Quantity or would constitute a breach of the Governing Code;
      2. if the Seller can demonstrate to the Buyer's reasonable satisfaction that if the Seller was not to grant the proposed rights to the third party then it is likely that the third party or a statutory undertaker would be able to acquire such rights or reasonably equivalent rights by means of a statutory process then the Buyer will not unreasonably withhold consent to the voluntary grant of such rights by the Seller, subject to the Seller using reasonable endeavours to procure that the documentation granting such rights contains provisions designed to avoid (or in any case minimise) any adverse impact on the performance of the Specified Project insofar as affecting the Contract Quantity; and
      3. the Seller shall be responsible for the proper and reasonable fees and expenses incurred by the Buyer in connection with the matters referred to in this Clause 11.7.
3. New Credits
   1. The Seller shall have the right to carry out itself on the Specified Project Site, or authorise third parties to carry out, projects and developments other schemes in respect of generation of New Credits and to retain their full financial benefit provided any such future schemes or opportunities do not interfere with or prejudice the Specified Project or its eligibility under the Governing Code, the Carbon Units acquired (or to be acquired) by the Buyer under this Contract or the fulfilment of any term of this Agreement.
   2. If any New Credits become available in respect of the activities envisaged in this Agreement or in respect of the Specified Project Site, the New Credits shall, as between the Buyer and the Seller, belong solely to the Seller.
   3. The Seller undertakes not to take any steps that may have the effect of reducing the number of Carbon Units issued in respect of the Specified Project below the Carbon Units forecast in the Carbon Sequestration Profile in connection with seeking to obtain New Credits.
4. Security
   1. If the Specified Project is a Secured Project then the Seller shall deliver to the Buyer a Subscribed Standard Security in exchange for payment of (the Security Payment, together with:
      1. a Legal Report brought down to a date as near as practicable to the date of settlement which Report will show:
         1. no entries adverse to the Seller's interest in the Specified Project Site (or relevant part thereof);
         2. where the Seller's interest in the Specified Project Site is registered in the Land Register of Scotland:-
            1. the Advance Notice for the Standard Security; and
            2. no other Advance Notices; and
      2. clear searches in the Personal Register against the Seller and any party having an interest in the Specified Project Site for a period of 5 years brought down to a date as near as practicable to the Effective Date;
      3. a search in the Register of Community Interests in Land brought down as near as practicable to the date of settlement showing nothing prejudicial to the ability of the Seller to validly grant the Standard Security to the Buyer;
      4. In the event that the Seller’s title to the Specified Project Site is recorded in the General Register of Sasines an application for registration of the title to the Specified Project Site in the Land Register of Scotland together with all relevant supporting documentation to be submitted to Registers of Scotland, which will include a plan which meets the requirements of Registers of Scotland, all in a form approved by the Buyer acting reasonably. The application will confirm that there has not been any limitation or restriction on the examination of title to the Specified Project Site and the Seller will take into account any reasonable representations made in writing by the Buyer. The Seller will deliver the signed application form (as approved by the Buyer) and all necessary supporting documentation to the Buyer with the Standard Security;
      5. A letter of consent to the grant of the Standard Security from any party holding a standard security affecting the Specified Project Site, in a form approved by the Buyer, acting reasonably. If required by the holder of any standard security the Seller will deliver a ranking agreement in respect of each such prior standard security, validly executed by the Seller and the holder of such prior standard security (such ranking agreement to be in terms to be approved by the Buyer acting reasonably and providing for (a) the holder of such prior standard security to rank ahead of the Buyer’s Standard Security and (b) an acknowledgement that any power of sale included within such prior standard security would be exercised subject to and with the benefit of this Contract), together with signed land registration forms in respect of the interests of the Seller and the holder of the prior standard security respectively;
      6. In the event that the Seller is a company or industrial and provident society, searches in the Register of Charges and company file of the Seller (including a search to identify the directors and the secretary of the Seller as at the date of signing the Standard Security) from the date of its incorporation or the date of inception of the Register (whichever is the later) brought down:
         1. as near as practicable to the Effective Date; and
         2. within 3 months following the Effective Date, to a date at least thirty six days after Effective Date

in both cases disclosing no entry prejudicial to the Seller’s ability to grant the Standard Security, but the Seller's Solicitors will not provide a letter of obligation in respect of the updated search in the Register of Charges and company file;

* + 1. a letter of non-crystallisation from the holder of each and every floating charge affecting the Specified Project Site, such letter to be in the chargeholder's usual form and to include consent to the grant of the Standard Security
  1. The Buyer shall grant a valid and effective discharge of the Standard Security on the expiry or sooner termination of this Agreement (save in the event of termination as a result of any breach by the Seller, where the Buyer still retains an ability to pursue the Seller for damages or compensation, whether in terms of this Agreement or otherwise).
  2. The Seller shall be entitled without the consent of the Buyer to grant one prior ranking standard security over its interest in the Specified Project Site and Ancillary Lands or any part to any bank or other recognised financial institution and the Buyer shall within 20 Business Days of written request execute such documentation as may be necessary to effect such prior ranking, whether by way of ranking agreement or deed of postponement or otherwise provided always that the grantee under such standard security undertakes to the Buyer not to transfer the Specified Project Site and/or Ancillary Lands or any part thereof by virtue of their power of sale without taking the transferee bound (by way of direct undertaking to the Buyer on terms acceptable to the Buyer, acting reasonably) to implement the Seller’s obligations under this Contract or, at the Buyer’s request, to take a novation of the Seller's rights and obligations under this Agreement, in terms of an agreement that is acceptable to the Buyer, acting reasonably. All costs properly and reasonably incurred by the Buyer in terms of this Clause 13.3 shall be met by the Seller.

1. Termination
   1. The Seller shall be entitled to terminate this Agreement if:
      1. the Buyer fails to comply with any of their obligations to pay (a) the Deposit in terms of Clause 4.2 and/or (b) the Completion Payment in terms of Clause 4.3 and/or (c) any part of the Post-Completion Payment in terms of Clause 4.7 and/or (d) any Verification Payment in terms of Clause 8.10.1, and that in each case within 10 Business Days after the payment in question shall have become due, but only after the Seller has first provided the Buyer with written notice stipulating the sum due and notifying the Buyer that this Agreement may be terminated by the Seller on expiry of the period (being not less than 45 Business Days) stipulated in the Notice if said sum and any interest payable thereon pursuant to this Agreement have not been paid in full by the expiry of said period; or
      2. the Buyer breaches the terms of Clause 19.1 or Clause 21.2.
   2. The Buyer shall be entitled to terminate this Agreement:
      1. In terms of Clause 5.6, Clause 6.4, Clause 7.2.1 or Clause 9
      2. if the Establishment Works have not commenced by the Establishment Works Commencement Date
      3. the Seller fails to comply with its obligations under Clause 4.4
      4. the Seller has breached its obligations under Clause 4.6;
      5. the Seller has breached its obligations under Clause 20.1;
      6. if there has been a material breach by the Seller of any of its other obligations under this Contract during the Pre-Validation Period;
   3. The Buyer shall not be entitled to terminate the Contract on the grounds of Clause 14.2.1, Clause 14.2.2., Clause 14.2.3 or Clause 14.2.6 unless the breach in question has not been remedied within such reasonable period (having regard to the nature of such breach and being not less than 45 Business Days) of the Seller being given a notice by or on behalf of the Buyer describing the breach and specifying that it is a notice given under Clause 14 and that a failure to remedy the breach may result in termination.
   4. If the Seller terminates this Agreement in terms of Clause 14.1, all sums paid to the Seller by the Buyer prior to termination shall belong to the Seller and shall be non-refundable.
   5. If the Buyer terminates this Agreement in terms of Clause 14.2, the terms of Clause 15 shall determine the Seller's liability, and which provisions of Clause 15 (and the obligations thereunder) shall subsist notwithstanding termination of this Agreement.
   6. Termination of this Agreement shall not affect any accrued rights and liabilities of the Parties under this Agreement or at Law.
2. Seller liability on Termination
   1. If the Buyer terminates this Agreement in terms of Clause 14.2 as a consequence of Seller Fault then the Seller shall pay to the Buyer the Seller Fault Payment, and that within 20 Business Days of the later of (a) termination of this Agreement and (b) receipt by the Seller of an invoice in respect of the Seller Fault Payment. In the event that the Seller Fault Payment is defined in the Commercial Term Sheet as Damages then the Buyer shall be entitled to pursue a damages claim against the Seller for loss resulting from the Seller's breach of this Agreement.
   2. If the Buyer terminates this Agreement in terms of Clause 14.2 but there has been no Seller Fault then the Seller shall pay to the Buyer the No Seller Fault Payment, and that within 20 Business Days of the later of (a) termination of this Agreement and (b) receipt by the Seller of an invoice in respect of the No Seller Fault Payment. In the event that the No Seller Fault Payment is defined in the Commercial Term Sheet as Damages then the Buyer shall be entitled to pursue a damages claim against the Seller for loss resulting from the Seller's breach of this Agreement.
3. Indemnities
   1. Each Party (in this Clause 16 "**the Indemnifying Party**") shall indemnify the other Party (in this Clause 16 "**the Indemnified Party**") against all third party actions, proceedings, damages, penalties, costs, charges, claims and demands incurred by the Indemnified Party in consequence of any proven breach by the Indemnifying Party of any provision of this Agreement and/or any negligent act or omission of the Indemnifying Party;
   2. the maximum liability of :
      1. the Buyer to the Seller under this Clause 16 shall be the Buyer Maximum Liability Sum per claim or series of claims arising from a single event, as such sum shall be reviewed in an upwards direction only by agreement between Parties on every 5th anniversary of the Effective Date, to reflect standard industry practice for projects similar to the Specified Project; and
      2. the Seller to the Buyer under this Clause 16 shall be the Seller Maximum Liability Sum per claim or series of claims arising from a single event, as such sum shall be reviewed in an upwards direction only by agreement between Parties on every 5th anniversary of the Effective Date, to reflect standard industry practice for projects similar to the Specified Project;
   3. Neither Party's liability in respect of personal injury or death resulting from its negligence is limited in any way.
   4. Any Party making a claim under this Clause 16 shall provide reasonable details, calculations and evidence of the liabilities incurred by it which it is including in its claim under this Clause 16.
   5. If a Party becomes aware of any matter that may lead to a claim, they shall as soon as reasonably practicable, inform the other Party in writing and shall not make any admission of liability, agreement or compromise with any person in relation to any claim without prior consultation with the other Party.
   6. Neither Party shall be liable for any economic loss, loss of production, loss of profit, loss of profitability, loss of use, loss of contract, loss of goodwill or any indirect or consequential loss or damage whatsoever arising from any performance, non- performance, act, omission or breach;
   7. Nothing in this Agreement shall restrict or interfere with either Party's rights against the other Party or any other person in respect of contributory negligence;
   8. In case of third party claims, the Indemnifying Party may step in and conduct any relevant claim on behalf of the Indemnified Party and the Indemnified Party shall provide reasonable assistance for this purpose and the Indemnifying Party shall meet the proper and reasonable costs thereby incurred by the Indemnified Party. In such event the Indemnifying Party conducting the claim shall not make any admission of liability, agreement or compromise with any person, body or authority in relation to any relevant claim without prior consultation with the Indemnified Party.
   9. Each Party shall use reasonable endeavours to mitigate or minimise any costs, claims, damages, losses, liabilities and demands.
4. Insurance
   1. Where the Specified Project is a Woodland Carbon Code Project and the Seller and the Buyer have agreed that the Seller will effect insurance in respect of the Specified Project, as such agreement is indicated by the word "yes" next to "Insurance" in the Commercial Term Sheet the Seller undertakes to maintain Insurance throughout the Contract Period for the Specified Project Cover and, if requested by the Buyer, provide copies of the insurance policy and premium receipts for the cover subsisting from time to time
   2. For any Specified Project the Seller undertakes to maintain public liability cover for the Seller Maximum Liability Sum per claim or series of claims arising from a single event, as such sum shall (if applicable) be reviewed in an upwards direction only by agreement between Parties on every 5th anniversary of the Effective Date, to reflect standard industry insurance practice for projects similar to the Specified Project.
   3. The Seller shall co-operate in providing information if the Buyer seeks to put in place additional costs cover, including without prejudice to that generality cover for the value of all or any of the Contract Quantity and if the Buyer requests that the Seller include such cover as part of the Seller's own insurance of the Specified Project Site then the Seller shall do so and take all steps reasonable necessary to effect and maintain such cover, subject to the Buyer meeting any premia and other costs incurred by the Seller in effecting and maintaining such cover.
   4. The Seller shall not do or omit to do any act which has the effect of rendering any such insurance void or voidable or vitiating a claim under any such insurance cover effected by, or at the request of, the Buyer pursuant to Clause 17.1.
   5. The Buyer shall not do or omit to do any act which has the effect of rendering any such insurance void or voidable or vitiating a claim under any such insurance.
5. Change in Law/Change in Governing Code
   1. A Change in Law shall not affect a Party's obligation to comply with Law except to the extent set out in this Clause.
   2. If either Party becomes aware of a Change in Law which may result in that Party being unable to comply with its obligations under this Agreement, or exercise its rights under this Contract, it shall give notice to the other Party describing the Change in Law.
   3. If a Change in Law occurs is or likely to occur, the Parties shall in good faith discuss the impact of the Change in Law on the ability of the Parties to comply with their respective obligations or exercise their respective rights under this Agreement. The Parties agree that they will make such changes to this Agreement as may reasonably be required to ensure that the Parties are able to perform their respective obligations or exercise their respective rights as originally envisaged by the terms of this Agreement, and that by way of a variation to this Agreement.
   4. In the event that Parties have agreed on Change Risk Seller then each Party shall meet its own fees and costs incurred in connection with the process set out in Clause 18.3.
   5. In the event that Parties have agreed on Change Risk Buyer then the Buyer shall meet its own fees and costs and also the proper and reasonable fees and costs incurred by the Seller incurred in connection with the process set out in Clause 18.3, the Seller's fees and costs to be paid within 20 Business Days of the last Subscription of the variation of this Agreement.
   6. If a Change in Law and consequential variation to this Contract in terms of Clause 18.3 results in an increase in the costs of compliance by the Seller with its obligations under this Agreement then:
      1. In the event that Parties have agreed on Change Risk Seller then the Seller shall remain liable for the increased costs of compliance and shall be required to continue to comply with all of its obligations under this Agreement as the same shall have varied pursuant to Clause 18.3; or
      2. In the event that Parties have agreed on Change Risk Buyer then the Buyer shall be liable for any of the Seller's increased costs of compliance with all of its obligations under this Agreement as the same shall have varied pursuant to Clause 18.3, and that in accordance with Clause 18.7
   7. If Clause 18.6.2 applies then:
      1. the Buyer shall be responsible for the proper and reasonable costs of the Seller in complying with the Seller's obligations under Clause 5, Clause 6, Clause 7, Clause 8 and Clause 11 to the extent such costs are greater than those costs that the Seller would reasonably be expected to have incurred in complying with the Seller's obligations under Clause 5, Clause 6, Clause 7, Clause 8 and Clause 11 had there not been a Change in Law and subsequent variation to this Contract pursuant to Clause 18.3;
      2. costs referred to in Clause 18.7.1 shall be paid on a rolling basis as and when they fall due but no more frequently than quarterly, and in any event within 20 Business Days of the later of (a) Seller or their agents providing the Buyer with an invoice in respect of such costs and any vouchings reasonably required by the Buyer in respect with such request for payment and (b) agreement or determination of costs pursuant to Clause 18.7.3;
      3. the Parties will act reasonably in agreeing costs that are payable in terms of Clause 18.7.1 but in the event of disagreement that cannot be resolved then either Party may refer the matter for dispute resolution in terms of Clause 33
   8. If a change to the Governing Code occurs is or likely to occur, the Parties shall in good faith discuss the impact of the change on the ability of the Parties to comply with their respective obligations or exercise their respective rights under this Agreement. The Parties agree that they will make such changes to this Agreement as may reasonably be required to ensure that the Parties are able to perform their respective obligations or exercise their respective rights as originally envisaged by the terms of this Contract, and that by way of a variation to this Agreement .
   9. In the event that Parties have agreed on Change Risk Seller then each Party shall meet its own fees and costs incurred in connection with the process set out in Clause 18.8.
   10. In the event that Parties have agreed on Change Risk Buyer then the Buyer shall meet its own fees and costs and also the proper and reasonable fees and costs incurred by the Seller incurred in connection with the process set out in Clause 18.8, the Seller's fees and costs to be paid within 20 Business Days of the last Subscription of the variation of this Agreement.
   11. If a change to the Governing Code results in an increase in the costs of compliance by the Seller with its obligations under this Agreement then:
       1. In the event that Parties have agreed on Change Risk Seller then the Seller shall remain liable for the increased costs of compliance and shall be required to continue to comply with all of its obligations under this Agreement; or
       2. In the event that Parties have agreed on Change Risk Buyer then the Buyer shall be liable for and of the Seller's increased costs of compliance with all of its obligations under this Agreement
   12. If Clause 18.11.2 applies then:
       1. The Buyer shall be responsible for the proper and reasonable costs of the Seller in complying with the Seller's obligations under Clause 5, Clause 6, Clause 7, Clause 8 and Clause 11 to the extent such costs are greater than those costs that the Seller would reasonably be expected to have incurred in complying with the Seller's obligations under Clause 5, Clause 6, Clause 7, Clause 8 and Clause 11 had there not been a Change in the Governing Code;
       2. costs referred to in Clause 18.12.1 shall be paid on a rolling basis as and when they fall due but no more frequently than quarterly, and in any event within 20 Business Days of the later of (a) Seller or their agents providing the Buyer with an invoice in respect of such costs and any vouchings reasonably required by the Buyer in respect with such request for payment and (b) agreement or determination of costs pursuant to Clause 18.12.3;
       3. the Parties will act reasonably in agreeing costs that are payable in terms of Clause 18.12.1 but in the event of disagreement that cannot be resolved then either Party may refer the matter for dispute resolution in terms of Clause 33.
6. Alienation
   1. Subject to the terms of Clause 20 the Seller shall not be entitled, without the prior consent in writing of the Buyer, to (i) assign, transfer or novate, all or any of their respective rights and benefits under this Agreement; or (ii) make a declaration of trust in respect of or enter into any arrangement under which it agrees to hold in trust for any person all or any of its rights and benefits under this Agreement.
   2. The Seller shall be entitled, without the consent of the Buyer, to assign its rights and/or benefits under this Agreement by way of security to a Finance Party and any assignment pursuant to the enforcement of such security.
   3. The Buyer shall be entitled to assign its interest in this Contract to any person as follows:
      1. without Seller's consent if the Post-Completion Payment outstanding is nil; or
      2. otherwise with the consent of the Seller, not to be unreasonably withheld or delayed if the proposed assignee is demonstrably capable of fulfilling the Buyer's remaining obligations in this Agreement for the remainder of the Contract Period, provided always that the proposed assignee undertakes to the Seller (by way of direct undertaking to the Seller on terms acceptable to the Seller, acting reasonably) to implement the Buyer’s obligations under this Agreement or, at the Seller’s request, to take a novation of the Buyer's rights and obligations under this Agreement, in terms of an agreement that is acceptable to the Seller, acting reasonably. All costs properly and reasonably incurred by the Seller in terms of this Clause 19.3.2 shall be met by the Buyer.
7. Transfer of Specified Project Site
   1. The Seller shall be prohibited from transferring its interest in all or any part of the Specified Project Site or assigning its interest under this Agreement in whole or in part, save in compliance with the terms of this Clause 20.
   2. The Seller shall be obliged to transfer its interest in this Contract to any party (in this Clause 20, "**the Assignee**"), that is simultaneously acquiring the Seller's interest in all or any part of the Specified Project Site (in this Clause 20, "**the Transferred Part**") subject to the following provisions:
      1. the Seller shall provide the Buyer with not less than 30 Business Days' prior written notice of the proposed transfer (in this Clause 20, "**the Assignation**"), including details of the Assignee, such period to allow for Parties and the Assignee to complete the remainder of the steps required pursuant to this Clause 20.2;
      2. the Assignee shall undertake to the Buyer (by way of direct undertaking to the Buyer on terms acceptable to the Buyer, acting reasonably) to implement the Seller’s obligations under this Contract insofar as relating to the Transferred Part or, at the Buyer’s request, to take a novation of the Seller's rights and obligations under this Agreement insofar as relating to the Transferred Part, in terms of an agreement that is acceptable to the Buyer, acting reasonably;
      3. if the Specified Project is a Secured Project then at completion of the Assignation in compliance with the remaining provisions of this Clause 20.2 the Assignee shall provide the Buyer with a Subscribed Standard Security over the Transferred Part, in exchange for delivery by the Buyer of a discharge (or deed of restriction if appropriate), releasing the Transferred Part from the Standard Security in favour of the Buyer;
      4. the Seller shall exhibit on or prior to completion of the Assignation a Legal Report brought down to a date as near as practicable to the date of completion which Report will show:
         1. no entries adverse to the Seller's interest in the Specified Project Site (or relevant part thereof);
         2. where the Seller's interest in the Specified Project Site is registered in the Land Register of Scotland:-
            1. the Advance Notice for the Standard Security by the Assignee; and
            2. no other Advance Notices
      5. the Seller shall exhibit clear searches in the Personal Register against the Assignee brought down to a date as near as practicable to the date of completion of the Assignation showing nothing prejudicial to the ability of the Assignee to validly enter into documentation entered into pursuant to this Clause 20.2;
      6. the Seller shall exhibit a search in the Register of Community Interests in Land brought down as near as practicable to the date of completion of the Assignation showing nothing prejudicial to the ability of the Assignee to validly grant the Standard Security to the Buyer;
      7. the Seller shall exhibit a letter of consent to the grant of the Standard Security by the Assignee from any party holding (or being simultaneously granted) a standard security affecting the Transferred Part, in a form approved by the Buyer, acting reasonably. If required by the holder of any standard security the Seller will deliver a ranking agreement in respect of each such standard security, validly executed by the Assignee and the holder/grantee of such standard security (such ranking agreement to be in terms to be approved by the Buyer acting reasonably and providing for (a) the holder of such standard security to rank ahead of the Buyer’s Standard Security and (b) an acknowledgement that any power of sale included within such standard security would be exercised subject to and with the benefit of this Agreement), together with signed land registration forms in respect of the interests of the Assignee and the holder of the other standard security respectively;
      8. In the event that the Assignee is a company or industrial and provident society, the Seller shall exhibit searches in the Register of Charges and company file of the Assignee (including a search to identify the directors and the secretary of the Assignee as at the date of signing documentation Subscribed pursuant to this Clause 20.2) from the date of its incorporation or the date of inception of the Register (whichever is the later) brought down:
         1. as near as practicable to the date of completion of the Assignation; and
         2. within 3 months following the date of completion of the Assignation, to a date at least thirty six days after date of completion of the Assignation

in both cases disclosing no entry prejudicial to the Assignee's ability to enter into documentation Subscribed by the Assignee pursuant to this Clause 20.2;

* + 1. the Seller shall exhibit a letter of non-crystallisation from the holder of each and every floating charge affecting the Transferred Part, such letter to be in the chargeholder's usual form and to include consent to the Assignee entering into any documentation that it enters into pursuant to this Clause 20.2 that would require the consent of the chargeholder;
    2. The Seller shall be responsible for ensuring that all obligations under the Governing Code that relate to a change in identity of the party that manages the Specified Project are complied with as part of the transfer of the Transferred Part, and that the Buyer is provided with evidence thereof; and
    3. All costs properly and reasonably incurred by the Buyer in terms of this Clause 20.2 shall be met by the Seller

1. Change in Control
   1. If there is no Change in Control Restriction then the consent of the Seller shall not be required in respect of a Change in Control of the Buyer;
   2. If there is a Change in Control Restriction then a Change in Control in the Buyer can take place:
      1. without Seller's consent if the Post-Completion Payment outstanding is nil; or
      2. otherwise with the consent of the Seller, not to be unreasonably withheld or delayed if the Buyer following such proposed Change in Control is demonstrably capable of fulfilling the Buyer's remaining obligations in this Agreement for the remainder of the Contract Period. All costs properly and reasonably incurred by the Seller in terms of this Clause 21.2.2 shall be met by the Buyer.
2. Further Assurance

Each Party shall execute such documents and do such acts and things as the other Party may reasonably require for the purpose of giving effect to the provisions of this Agreement.

1. Confidentiality
   1. Subject to the following provisions of this Clause 23, each Party shall treat, and shall ensure that its employees, agents, and professional advisers treat, all Confidential Information as strictly confidential and do not disclose any Confidential Information to any person at any time except with the prior approval in writing of the other Party.
   2. For the purposes of this Clause, Confidential Information means:
      1. information relating to the Seller
      2. information relating to the Specified Project Site
      3. information relating to the Buyer
      4. information relating to the Specified Project
      5. this Contract itself, including all commercial terms hereof
   3. Either Party may disclose Confidential Information to the following parties provided that the receiving party has a confidentiality obligation in respect of the Confidential Information to the disclosing Party whether at law or by undertaking:
      1. professional advisers;
      2. insurers;
      3. auditors;
      4. prospective lenders;
      5. prospective transferees of all or part of the Project Site;
      6. prospective purchasers of all or any part of the Buyer or the Buyer's interest in this Contract
   4. Either Party (or any person permitted to receive Confidential Information under this Clause 23) may disclose Confidential Information to any person without a confidentiality obligation in respect of the Confidential Information to the extent it may be required to do so:
      1. to comply with Law;
      2. to comply with the requirements of the Governing Code;
      3. to comply with a court order;
      4. to comply with the requirements of any professional body or the decision of hearing of that body
      5. to comply with generally accepted accounting practice;
      6. to comply with the requirements of a trading exchange
   5. If either Party is, or becomes, aware that it may require to make a disclosure of Confidential Information pursuant to Clause 23.4, it shall, to the extent permitted by law:
      1. notify the other Party in good time of its obligation to disclose Confidential Information, the information it considers it is required to disclose and to whom it intends to make such disclosure, and
      2. consult with the other Party as to the timing and content of the Confidential Information to be disclosed.
2. Step-in Rights

If the Seller and the Purchaser have elected to include Step-in Rights as part of this Agreement (as indicated by the word "yes" next to "Step-in Rights" in the Commercial Term Sheet):

* 1. In the event that the Seller is in material breach of its obligations under any or all of Clause 8 or Clause 11 of this Agreement at any time during the Post-Validation Period then the Buyer may exercise its rights under this Clause 24, but subject to the provisions of this Clause 24. The Buyer may exercise such rights on multiple occasions during the Post-Validation Period.
  2. If the Buyer, acting reasonably, considers that the Seller is in material breach of its obligations under any or all of Clause 8 or Clause 11 of this Agreement at any time during the Contract Period and that such material breach is to the prejudice of any of the Buyer's interest under this Agreement then the Buyer shall be entitled to serve a notice on the Seller, which notice shall contain the following information, namely:
     1. Which particular Clause of this Agreement the Seller is alleged to be in material breach of;
     2. The action or actions that the Seller shall require to take in order to remedy the material breach;
     3. The date by which the Seller must remedy the material breach, and which date shall be reasonable in all the circumstances and shall be no less than 20 Business Days after the date of service of the notice;

and shall stipulate that in the event the remedial action referred to in Clause 24.2.2 is not taken in full by the date referred to in Clause 24.2.3 then the Buyer shall be entitled to take such remedial action as referred to in Clause 24.2.2;

* 1. If the Seller, acting reasonably, considers that:
     1. It is not in material breach of the Clause contained in the notice and referred to in Clause 24.2.1; and/or
     2. The action or actions stipulated in the notice and referred to in Clause 24.2.2 are not reflective of steps that are required in order to remedy the alleged material breach; and/or
     3. The time limit for remedial action as referred to in Clause 24.2.3 is not reasonable in all the circumstances

then the Seller shall be entitled to provide a written counter-notice to that effect to the Buyer and provided that such counter-notice is served on the Buyer no later than the date that is 20 Business Days after the date of service of the notice, then the Buyer and the Seller shall act reasonably in attempting to agree whether there has been a material breach of the Seller's obligations, remedial action or actions to be taken by the Seller and what is a reasonable timescale therefor.

* 1. If the Parties cannot agree whether there has been a material breach of the Seller's obligations, the remedial action or actions to be taken by the Seller and what is a reasonable timescale therefor then either Party shall be entitled to refer the matter for dispute resolution in accordance with Clause 33.
  2. If either the Parties agree on whether there has been a material breach of the Seller's obligations, the remedial action or actions to be taken by the Seller and what is a reasonable timescale therefor or else these matters are determined by dispute resolution in accordance with Clause 33 then the Buyer shall be entitled to serve a replacement notice to that served in terms of Clause 24.2 and which notice shall contain the following information, namely:
     1. Which particular Clause of this Agreement the Seller is agreed or determined to be in material breach of;
     2. The action or actions that the Seller shall require to take in order to remedy the material breach;
     3. The date by which the Seller must remedy the material breach, and which date shall be as agreed/determined and shall be no less than 20 Business Days after the date of service of the notice;

and shall stipulate that in the event the remedial action referred to in Clause 24.5.2 is not taken in full by the date referred to in Clause 24.5.3 then the Buyer shall be entitled to take such remedial action as referred to in Clause 24.5.2;

* 1. If at any time during the Contract Period either:
     1. (a) notice is served by the Seller in accordance with Clause 24.2 (b) counter-notice is not timeously served by the Seller in accordance with Clause 24.3 and (c) remedial action or actions referred to in Clause 24.2.2 are not taken in full by the Seller by the date referred to in Clause 24.2.3; or
     2. (a) replacement notice is served by the Seller in accordance with Clause 24.5 and (b) remedial action or actions referred to in Clause 24.5.2 are not taken in full by the Seller by the date referred to in Clause 24.5.3.

then the Buyer shall be entitled to take the action or actions referred to in Clause 24.2.2 or Clause 24.5.2 and the Seller shall provide the Buyer with all reasonable co-operation and assistance and take such steps and sign such forms or letters of authority as are reasonably required in order for the Buyer to be able to effect such action or actions.

* 1. The Seller shall be liable for all proper and reasonable fees and costs incurred by the Buyer in connection with all actions taken pursuant to this Clause 24, which shall be payable within 20 Business Days of written request.

1. Notices
   1. Any communication, notice, submission, demand or request required to be made under this Contract shall be in writing and shall be deemed to have been duly made if it has been delivered by hand delivery, courier or postal service by either Party to the other Party at the address indicated in the Commercial Term Sheet.
   2. A Party may change the address for notices set out in the Commercial Term Sheet by giving a notice to the other Party referring to this Agreement, this Clause and setting out the new address details.
   3. In the case of delivery by courier or other recorded postal service, delivery shall be proved by evidence of receipt; in the case of delivery of other postal services, delivery shall be deemed to have occurred two days after evidence of posting.
2. VAT
   1. All consideration under this Contract shall be exclusive of VAT (if any). Where one party (the **“supplier”**) makes or is deemed to make a supply to another party (the **“recipient”**) for the purposes of VAT:
      1. the recipient shall pay VAT in addition to the consideration (together with any penalty or interest chargeable on the supplier to the extent attributable to any act or omission by the recipient); and
      2. the supplier shall issue to the recipient a VAT invoice.
3. No Waiver
   1. No provision of this Agreement shall be treated as waived unless a Party expressly waives its rights in writing.
   2. No delay by or omission by a Party in exercising any right, power or remedy under this Agreement shall impair such right, power or remedy or be construed as a waiver thereof. The exercise of such right, power or remedy on any occasion shall not preclude the further exercise of that right, power or remedy in the future.
4. Severability
   1. If any provision of this Agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
   2. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with such changes as may be necessary to make it legal, valid and enforceable and as agreed by the Parties.
5. Entire Agreement
   1. This Agreement, including the Schedule shall constitute the entire agreement between the Parties with respect to its subject matter and supersedes all previous agreements and understandings between the Parties with respect thereto.
   2. Each of the Parties acknowledges and confirms that it does not enter into this Agreement in reliance on any representation or warranty or other undertaking not fully reflected in the terms of this Agreement, provided that this Clause shall not have the effect of excluding liability on the part of either Party for any fraudulent misrepresentation.
   3. No amendment modification or variation of the terms of this Agreement shall be effective unless executed in writing by both Parties.
6. Variation
   1. A variation of this Agreement shall only be effective if it is in writing and Subscribed by or on behalf of both Parties.
   2. If at any time during the Contract Period there is land within the Specified Project Site that is no longer affected by any of the Seller's obligations under the Governing Code insofar as affecting the Specified Project then the Buyer will act reasonably in agreeing to a Seller request to vary this agreement in order to remove that land from the ambit of this agreement and shall take such steps and sign such documentation as are reasonably required to give effect to such variation.
7. Execution in Counterpart

This Agreement may be entered into in any number of counterparts. This Agreement shall not be effective unless and until it has been entered into by all the Parties.

1. Third Party Rights

Nothing in this Agreement confers on any third Party any right to enforce any of the provisions of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999 provided always that this shall not prevent any successor in title or authorised assignee of any Party from enforcing the provisions of this Agreement.

1. Disputes
   1. If the Parties have elected for Expert Determination:
      1. Any dispute or disagreement between the Parties arising from the terms of this Agreement shall be referred to the decision of an independent third party (acting as an expert) with suitable experience in the matter in dispute ("**the Expert**"). The independent third party will be appointed by the parties and failing agreement (acting reasonably) to be nominated by the President (whom failing the Vice-President) for the time being of the Law Society of Scotland on the request of either Party.
      2. Both Parties shall be entitled to make representations to the Expert.
      3. The Expert's determination shall be final and binding upon the Parties except in the case of manifest or demonstrable error.
      4. The Expert shall be entitled to award expenses to or against either Party or between the Parties, failing which the Expert's cost shall be met equally between the Parties.
   2. If the Parties have elected for Arbitration:
      1. Any dispute or disagreement between the Parties arising from the terms of this Agreement shall failing agreement, be referred to a single arbitrator to be nominated failing agreement by the President for the time being of the Law Society of Scotland on the application of either Party and the award of such arbitrator shall be final and binding on the Parties and the expenses of any arbitration shall be borne as directed by the arbitrator,.
      2. If the said President shall for any reason not be available or shall be unable to make such appointment as aforesaid at the time of application therefor, the appointment may be made by the Vice Chairman or next senior officer of the said Institution then available and able to make such appointment.
      3. The seat of the arbitration will be in Scotland.
      4. The default rules set out in Schedule 1 of the Arbitration (Scotland) Act 2010 shall apply to the arbitration
2. Buyer Access
   1. If the Parties have agreed as a condition of this Agreement to provide the Buyer with access to the Project Site (as is indicated by the word "yes" next to "Buyer Access" in the Commercial Term Sheet), then the Buyer and their authorised contractors, employees and invited guests shall be entitled to take access to the Project Site for the purpose of inspection of the Specified Project and guided tours, subject to compliance with the provisions of this Clause 34.
   2. The Parties, acting reasonably, shall agree dates and times of access in advance of access being taken.
   3. The Buyer and their authorised contractors, employees and invited guests shall exercise access in a responsible manner and in accordance with all instructions and conditions reasonably imposed by the Seller or their project managers in connection with the protection of the Specified Project, for health and safety reasons or other reasonable purposes;
   4. Any costs properly and reasonably incurred by the Seller or their project managers in facilitating access shall be met by the Buyer, who shall, if the Seller so intimates, agree to be accompanied by the Seller or their project managers;
   5. The Buyer shall repair any damage caused to the Specified Project or the Project Site by the Buyer or their authorised contractors, employees or invited guests in the course of exercising such access or in the event it is not practicable to make good such damage shall pay reasonable compensation in respect of damage caused;
3. Publicity Rights
   1. If the Parties have agreed as a condition of this Agreement that the Buyer shall be entitled to publicise its involvement with the Specified Project and their acquisition of the Carbon Quantity (as is indicated by the word "yes" next to "Publicity Rights" in the Commercial Term Sheet), then the Buyer and shall be entitled to publicise such involvement with the Specified Project and their acquisition of the Carbon Quantity , subject to compliance with the provisions of this Clause 35.
   2. The Buyer shall ensure that the terms of any public announcements or printed materials are factually accurate and do not breach the terms of Clause 23.
   3. Save where there is Buyer Exclusivity, the terms of any public announcements or printed materials shall be provided to the Seller in advance of public announcement or publication to ensure that the same do not breach the Seller's obligations to any other party with an interest in the Specified Project and such public announcement or publication shall require the prior written consent of the Seller, not to be unreasonably withheld or delayed.
4. Additional Clauses

The Parties will comply with their respective obligations in terms of the Additional Clauses

1. Governing law and jurisdiction
   1. This Agreement shall be governed by and construed in all respects in accordance with the laws of Scotland.
   2. The Parties submit to the exclusive jurisdiction of the Scottish Courts as regards any claim (including any non-contractual claim), dispute or matter arising out of or in connection with this Agreement or its implementation and effect.
2. Testing clause

This document is executed as follows:

For Seller

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  | |
| signature of  director/secretary/authorised signatory/witness |  | signature of  director/secretary/authorised signatory | |
|  |  |  | |
| full name of above (print) |  | full name of above (print) | |
|  |  |  |  |
|  |  | date of signing |  |
|  |  |  |
| address of witness | | place of signing | |

For Buyer

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  | |
| signature of  director/secretary/authorised signatory/witness |  | signature of  director/secretary/authorised signatory | |
|  |  |  | |
| full name of above (print) |  | full name of above (print) | |
|  |  |  |  |
|  |  | date of signing |  |
|  |  |  |
| address of witness | | place of signing | |

1. 1. 1. Site Plan
   2. 1. Project Design Documents
   3. 1. Additional Clauses
   4. 1. Standard Security

We, [ ] ("the Seller"), have entered into a carbon pending issuance unit purchase agreement with [ ] ("the Buyer") dated on or around the date hereof (the "Agreement") in respect of the Security Subjects (as hereinafter defined) and in terms of which we have undertaken inter alia to sell carbon pending issuance units to the Buyer that are generated from activity on the Security Subjects NOW THEREFORE WE DO HEREBY in security of the performance by us of the obligations ad factum praestandum incumbent upon us in terms of Clause 4.6, Clause 19.1 and Clause 20 of the Agreement GRANT a Standard Security in favour of the Buyer over ALL and WHOLE [ Drafting note – conveyancing description of the Specified Project Site] (the "Security Subjects"): The standard conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 (the "Standard Conditions") and any lawful variation thereof operative for the time being, shall apply under exception of Standard Conditions 1, 2, 3, 4, 5, 6, 7 and 12 which shall not apply to this Standard Security; declaring also that with regard to Standard Conditions 9 and 10, the only applicable event of default shall be breach by us of any of our obligations in terms of the said clauses of the Agreement; and (Two) the Buyer and their successors, as a party to the Agreement, shall be entitled without any requirement of consent from us or our successor but subject to subsequent notification to us or our successor to freely assign or transfer the benefit of this Standard Security to any party validly in right of the Buyer's interest in the Agreement;; And we [ subject to existing securities – name ] grant warrandice and consent to the registration hereof for preservation and execution; IN WITNESS WHEREOF these presents consisting of this page [and the plan] are executed as follows:

|  |  |
| --- | --- |
| Subscribed for and on behalf of the said  [ ] |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature of director/secretary/authorised signatory | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature of witness |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Full name of above (print) | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Full name of above (print) |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date of signing | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Place of signing | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Address of witness |

* 1. 1. Serial Numbers of Contract Quantity