

World Bank

TERMS & CONDITIONS

CATS (Carbon Assets Tracking System)

KP Emission Reduction Transaction Registry (P172241)

V.6.0. September 2020



This report contains the Terms and Conditions of CATS (Carbon Assets Tracking System) as the legal agreement between the service provider (The WB) and the users of the Registry. CATS is a centralized system managed by the WB that records and tracks the issuance and transfers of ER units generated under WB results-based climate finance programs, between multiple account holders (internal transfers). The current version of CATS was designed and implemented to specifically support the operations under the ER Programs of the FCPF CF and BioCF ISFL but keeping the operational rules flexible enough to adapt easily to new WB programs in the future.

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Scope

The **Terms and Conditions of CATS (Carbon Assets Tracking System)** is the legal agreement between the service provider (The WB) and the users that sets the rules and guidelines that users must agree to and follow to use the registry services.

CATS is a centralized system that records and tracks the issuance and transfers of ER units generated under WB results-based climate finance programs, between multiple account holders (internal transfers). The current version of CATS was designed and implemented to specifically support the operations under the ER Programs of the FCPF CF and BioCF ISFL but keeping the operational rules flexible enough to adapt easily to new WB programs in the future.

These Terms and Conditions are focused on the current version of CATS under the above-mentioned scope: to support the operations under the ER Programs of the FCPF CF and BioCF ISFL. This document is part of the outputs under the KP Emission Reduction (ER) Transaction Registry (P172241).

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ARTICLE I

Parties

Section 1.01 *Parties*

The International Bank for Reconstruction and Development ("**Registry Operator**") and You (the "**User**") (individually referred to herein as a "**Party**", and collectively referred to herein as the "**Parties**").

ARTICLE II

General Terms and Conditions

Section 2.01 *General Terms and Conditions*

- (a) The following are the Terms and Conditions for the IBRD Carbon Assets Trading System ("**CATS**"), operated and administered by the IBRD acting as trustee of the BioCarbon Fund Initiative for Sustainable Forest Landscapes and the Forest Carbon Partnership Facility on behalf of the participants ("**Terms and Conditions**"). Your use of the Registry is subject to the following Terms and Conditions, which constitute a binding contract between you as user of the Registry and the IBRD as administrator and owner of the Registry.
- (b) The User acknowledges and agrees that when using the Registry, the User will be subject to, and must comply with, the guidance and policies issued by the Registry Operator from time to time applicable to the use of the Registry Site (collectively, the "**Registry Operational Guidelines**"). These Terms and Conditions and Registry Operational Guidelines are located online at <https://cats.worldbank.org> (the "**Registry Site**"). The Registry Operational Guidelines form part of the Terms and Conditions and any failure by the User to comply with the Registry Operational Guidelines will be regarded as a breach of these Terms and Conditions.

ARTICLE III

Definitions; Interpretations, Headings and Schedules

Section 3.01 *Definitions*

Unless the context otherwise requires, the following capitalized terms shall have the following meanings wherever used in these Terms and Conditions:

"**Affected Party**" means the Party that is, or anticipates that it will be, unable to perform an obligation under these Terms and Conditions due to the occurrence of a Force Majeure Event;

"**Agent**" means a User that is acting as an agent on behalf of a Principal for the purposes of utilizing the Registry;

"**AFOLU**" means agriculture, forestry and other land uses, including REDD+;

"Authorized Representative" means a representative appointed by User to exercise and fulfil the User's rights and obligations under these Terms and Conditions and the Registry Operational Guidelines;

"Beneficial Ownership Rights" means any contractual or other right to direct or control the sale or other disposition of, or the retirement of, an ER;

"BioCarbon Fund Initiative for Sustainable Forest Landscapes" or **"ISFL"** means the multilateral fund supported by donor countries and managed by the IBRD for promotion of reduction of greenhouse gas emissions from the land sector, deforestation and forest degradation in developing countries, and from sustainable agriculture, as well as smarter land-use planning, policies and practice;

"Business Day" means a day when means a day that is not a Saturday, Sunday, a public holiday or bank holiday in Washington D.C.;

"Buffer ERs" means an amount of ERs generated by a registered ER Program that are transferred by the Buffer Manager to the ER Program Buffer in accordance with the Operational Guidelines and the ER Program Buffer Guidelines;

"Cancellation Account" means an account in the Registry that lists the serial numbers of disputed ERs, and ERs held by Users that no longer hold a Registry Account;

"CATS" means the IBRD Carbon Assets Trading System;

"Confidential Information" means all information provided by one Party to another Party necessary to discharge each of the respective Party's rights and obligations under these Terms and Conditions, all of which information is restricted from public access unless and until the respective Party gives its written consent to disclose such information to the public, including but not limited to, information concerning the business affairs of a Party and its affiliates and customers, any analysis, information, pricing or other information related to any underlying ERs or Buffer ERs or transactions in this Registry, and any listing or account information, and excluding information that (a) is or becomes generally available to the public other than as a result of a breach of these Terms and Conditions, (b) is obtained by the receiving Party on a non-confidential basis from a third party that was not legally or contractually restricted from disclosing or sharing such information, (c) was in the receiving Party's possession prior to the other Party providing the information to the receiving Party, or (d) was independently developed by the receiving Party without using information provided by the other Party. All Confidential Information must be assigned a proper security classification pursuant to the applicable policies, procedures, directive, or equivalent, applicable to the Party receiving the information;

"Dispute" means any dispute between Registry Operator and the User arising out of or relating to these Terms and Conditions or the breach, termination or invalidity thereof;

"Double-Counting" has the meaning set forth in the International Rules and the Registry Operational Guidelines, and includes but is not limited to, using, listing, issuing or registering (or attempting to use, list, issue or register) the ERs or Buffer ERs on another registry, exchange or transaction platform aside from the Registry or by a third party without appropriate accounting;

"Double-Claiming" has the meaning set forth in the International Rules and the Registry Operational Guidelines, and includes but is not limited to, the claiming of climate mitigation benefits of the same ERs or Buffer ERs by two or more parties;

"Double-Selling" has the meaning set forth in the International Rules and the Registry Operational Guidelines, and includes but is not limited to, selling or transferring all or partial ownership interests in the same ERs or Buffer ERs to more than one buyer;

"Due Date" means fifteen (15) Business Days of receipt of invoice, which is the date upon which financial payments shall be made to the Registry Operator;

"ER" or **"Emission Reduction"** means one metric tonne of CO₂e reduced, avoided, removed or sequestered in accordance with the ER Program and issued by the Registry Operator in accordance with the Registry Operational Guidelines;

"ER Program" means a program or one or more policies, measures or projects to reduce deforestation and/or forest degradation and enhance and conserve carbon stocks that directly address the key drivers of deforestation and/or forest degradation supported by the FCPF or ISFL;

"ER Program Buffer" means one or more buffer reserve account(s) holding Buffer ERs pursuant to the Registry Operational Guidelines;

"ER Program Buffer Guidelines" refers to the ER Program Buffer Guidelines as issued by the IBRD and available at the Registry Site;

"Fee Schedule" means the schedule setting forth fees for the use of the Registry posted on the Registry Site **Error! Reference source not found.**;

"Force Majeure Event" means an extraordinary and unavoidable event beyond the reasonable control of the Party affected by it, including, but not limited to, cyclone, storm, flood, fire and insect plague, except that such event will not be considered a Force Majeure Event if the occurrence of the event could have been prevented or mitigated by the Party affected by it;

"Force Majeure Notice" the written notice prepared by the Affected Party that provides details of the Force Majeure Event;

"Forest Carbon Partnership Facility" or **"FCPF"** means the global partnership of governments, businesses, civil society, and indigenous peoples focused on reducing emissions from deforestation and forest degradation, forest carbon stock conservation, the sustainable management of forests, and the enhancement for promotion of reduction of greenhouse gas emissions from the land sector, deforestation and forest degradation in developing countries;

"IBRD" means the International Bank for Reconstruction and Development;

"IBRD CATS Integrity Due Diligence Process" means the process by which IBRD implements its sanctions screening for the CATS;

"Indemnified Party" means the Registry Operator and its independent contractors (including, without limitation, the Registry Software Provider) and their respective officers, directors, owners, employees, agents, subsidiaries, affiliates, successors and assigns;

"Interest Rate" means the per annum rate of interest equal to the prime lending rate published in The Wall Street Journal on the Due Date (or if not published on such day, on the most recent preceding day on which published);

"International Rules" means the Paris Agreement, the UNFCCC, UNFCCC Guidance on REDD+/AFOLU, any international climate change agreement(s) reached under UNFCCC that are relevant to REDD+/AFOLU, and any decisions, guidelines, rules, modalities and procedures relevant to REDD+/AFOLU and adopted thereunder;

"Initial Request" the written request of either Party requesting that the Parties meet promptly to consider the Dispute;

"KYC" or "Know-Your-Customer" means the requirements imposed by the Registry Operator in order to conduct due diligence on potential users of the Registry, including but not limited to, the IBRD CATS Integrity Due Diligence Process, as such requirements may be updated by IBRD from time to time;

"Losses" means losses, liabilities, damages, judgments, awards, fines, penalties, actions, claims, costs, and expenses, including, without limitation, any amounts paid in settlement or compromise and any fees and costs of counsel and experts;

"Non-Affected Party" means the Party that is provided with the Force Majeure Notice by the Affected Party;

"Non-Tradeable Account" means a Registry Account that holds ERs that cannot be transferred on the Registry in accordance with Registry Operational Guidelines;

"Other Data Subjects" means the other individuals whose Personal Data the User provides to the Registry Operator;

"Party" or "Parties" means the Registry Operator and the User;

"Personal Data" means certain information related to an identified or identifiable individual collected and processed by the Registry Operator and its representatives;

"Policy on Personal Data Privacy" means the then-current IBRD privacy policy available at: <https://policies.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=e569ea42-d6ca-4004-ab36-6f48457471a7> as such policy may be updated by IBRD from time to time;

"Principal" means a third party who owns ERs or Buffer ERs or wishes to utilize the Registry and who has appointed the User to act as an Agent on its behalf for the purposes of using the Registry;

"Public Personal Data" means personal information lawfully obtained by the Registry from publicly available government sources;

"REDD+" means reducing emissions from deforestation and forest degradation, and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks, as may be modified to be consistent with the UNFCCC Guidance on REDD+;

"Registry" means the platform available at the Registry Site that is owned and operated by the Registry Operator for the purpose of facilitating the issuance, transfer, surrender and cancellation of ERs;

"Registry Account" means an account or accounts on the Registry that the Registry Operator creates for the User for the purpose of participation in the Registry as set forth in the Registry Operational Guidelines, including Non-Tradeable Accounts and Tradeable Accounts;

"**Registry Operational Guidelines**" means the document entitled 'Operational Guidelines for Emission Reductions Transaction Registry' dated 4 October 2019, as updated and amended from time to time by the Registry Operator;

"**Registry Operator**" means the IBRD;

"**Registry Operator Bank Account**" means [insert];

"**Registry Operational Guidelines**" means the guidance and policies issued by the Registry Operator from time to time applicable to the use of the Registry Site;

"**Registry Site**" means the online location of the Terms and Conditions and Registry Operational GuidelinesError! Reference source not found.;

"**Registry Software Provider**" means [insert];

"**Sanctionable Practice**" means any coercive, corrupt, collusive, obstructive or fraudulent practice, as defined in the IBRD Carbon Finance Anti-Corruption Guidelines available on the Registry Site;

"**Term**" means the date on which the User indicates on the Registry Site that the User agrees with and accepts the Terms and Conditions and continuing until the date these Terms and Conditions are terminated;

"**Terms and Conditions**" means the Terms and Conditions for the IBRD Carbon Assets Trading System, operated and administered by the IBRD acting as trustee of the BioCarbon Fund Initiative for Sustainable Forest Landscapes and the Forest Carbon Partnership Facility on behalf of the participants;

"**Tradeable Account**" means a Registry Account that holds ERs that can be transferred on the Registry in accordance with Registry Operational Guidelines;

"**Transfer Request**" means the request by User to transfer of ERs from its Registry Account to another Registry Account by submission of a transfer request on the Registry Site to the Registry Operator;

"**UNCITRAL**" means the United Nations Commission on International Trade Law;

"**UNFCCC**" means the United Nations Framework Convention on Climate Change adopted in New York on May 9, 1992;

"**UNFCCC Guidance on REDD+/AFOLU**" means the body of rules, modalities, procedures and guidelines on REDD+ /AFOLU that are adopted under the auspices of the UNFCCC;

"**User**" means the user of the CATS and Party to these Terms and Conditions;

"**User Data**" means the data provided by the User.

Section 3.02 Interpretations, Headings and Schedules

- (a) In these Terms and Conditions, unless the context requires another meaning, a reference:
- (i) to any Party includes that Party's executors, administrators, successors and permitted assigns;
 - (ii) to the singular includes the plural and vice versa;

- (iii) to a Party means a Party to the Terms and Conditions, and to a Section or Schedule is to a Section or Schedule of these Terms and Conditions (unless otherwise specified);
 - (iv) to any International Rules, or to any treaty includes any modification or re-enactment of it or any treaty substituted for it, and all protocols, rules, modalities, guidelines, procedures, ordinances and regulations (however described) issued under it; and
 - (v) to a word or phrase with a defined meaning incorporates any other part of speech or grammatical form of that word or phrase as having a corresponding meaning.
- (b) The headings of the Articles and Sections are inserted for convenience of reference only and do not affect the interpretation of these Terms and Conditions.

ARTICLE IV

Term

Section 4.01 *Term*

- (a) These Terms and Conditions commence on the date on which the User indicates on the Registry Site that the User agrees with and accepts the Terms and Conditions, and these Terms and Conditions shall continue in effect until terminated in accordance with these Terms and Conditions ("**Term**").
- (b) By using or accessing the Registry, the User accepts and agrees to be bound by these Terms and Conditions as modified from time to time in accordance with the terms herein. Continued access and use of the Registry after modification of the Terms and Conditions shall constitute agreement to be bound by the modified Terms and Conditions. The User agrees to take affirmative responsibility for the compliance of any Agent or Authorized Representative(s) with these Terms and Conditions.
- (c) If the User does not agree with these Terms and Conditions, the User may not access or otherwise use the Registry.

ARTICLE V

Account Authorization, Authorized Representatives, User Acting as Agent

Section 5.01 *Account Authorization*

- (a) The User may request that the Registry Operator open a Registry Account in accordance with the Operational Guidelines and procedures set out by the Registry Operator.
- (b) To be eligible to open a Registry Account, the User shall: agree to be bound by these Terms and Conditions; and provide identification and other requested information, satisfactory to Registry Operator in its sole discretion, including satisfying any relevant KYC or other background check requirements in accordance with the procedures set out by the Registry Operator.

- (c) A person cannot hold, transfer or retire ERs or Buffer ERs on the Registry until the Registry Operator authorizes such person to hold a Registry Account on the Registry.
- (d) Once a Registry Account is established by the Registry Operator, in the event any information submitted to open a Registry Account changes, the User shall update registration information within 15 (fifteen) Business Days of the change.
- (e) The Registry Operator may, in its sole discretion, refuse to open a Registry Account for the User, including but not limited to, if the Registry Operator determines the applicant has provided false or misleading information or has withheld material information.

Section 5.02 *Authorized Representatives*

- (a) The User shall appoint one or more representatives to exercise and fulfil the User's rights and obligations under these Terms and Conditions and the Registry Operational Guidelines ("**Authorized Representative(s)**"). Registry Operator shall have the right to request identification and other information for the proposed Authorized Representative, including satisfying any KYC or background check requirements.
- (b) Each Authorized Representative must agree to, and will be bound by, these Terms and Conditions as if they themselves are the User.
- (c) It is the sole responsibility of the User to ensure that any Authorized Representative complies with these Terms and Conditions, the Operational Guidelines, and all relevant laws. The User holds primary liability for any action or inaction caused by its Authorized Representatives.
- (d) The User may change its Authorized Representative at any time upon notification to the Registry Operator and subject to approval by the Registry Operator. Notwithstanding such change, all actions, inactions and submissions by an Authorized Representative prior to the time of such change shall be binding on the User.
- (e) The Registry Operator shall have the authority to take direction solely from an Authorized Representative and not be responsible for the actions, inactions and submissions by an Authorized Representative or adjudicate any dispute between an Authorized Representative and a User or Agent in connection therewith.

Section 5.03 *User Acting as Agent*

- (a) The User may act as an agent on behalf of a Principal for the purposes of utilizing the Registry ("**Agent**"). Registry Operator shall have the right to request identification and other information for the User acting as Agent, including satisfying any KYC or background check requirements.
- (b) Any User of the Registry acting in the capacity as an Agent shall demonstrate to the Registry in accordance with the Operational Guidelines that it has full, valid and current authority to represent and act on behalf of the Principal and that such authority has not been revoked.
- (c) If the agency or other arrangement between an Agent and the Principal is revoked, the Agent must notify the Registry Operator immediately and all ERs held by the Agent in accounts for the

Principal shall be suspended in accordance with ARTICLE XV until alternative arrangements have been made to the satisfaction of the Registry Operator in its sole discretion. Notwithstanding such change, all actions, inactions and submissions by an Agent prior to the time of such change shall be binding on the User.

- (d) The User shall be fully liable for all its acts and omissions as Agent in accordance with the laws governing these Terms and Conditions. For the avoidance of doubt, the Principal of any Agent must agree to these Terms and Conditions before an Agent can be approved.

ARTICLE VI

Registering an ER Program

Section 6.01 *Registering an ER Program*

- (a) Once the User has opened a Registry Account, the User may request that the Registry Operator register an ER Program in accordance with the procedures set out by the Registry Operator.
- (b) The Registry Operator will require any User who intends to register an ER Program to provide all documentation and information as required by the Registry Operational Guidelines.
- (c) The Registry Operator will only register an ER Program if:
 - (i) the User has submitted all necessary information in accordance with the applicable Registry Operational Guidelines; and
 - (ii) the User has made representations regarding its compliance with all relevant laws in relation to the ER Program and satisfied all requirements set forth by the Registry Operator, as amended from time to time.
- (d) For the avoidance of doubt, the Registry Operator, in its sole discretion, may decline to register or list an ER Program on the Registry.

ARTICLE VII

Issuance and Transfer of ERs

Section 7.01 *Issuance Request and Issuance*

- (a) The User may submit a request to the Registry Operator to issue ERs to the User's Registry Account in accordance with the relevant Operational Guidelines and other information requested by the Registry Operator.
- (b) The Registry Operator will only issue such ERs if:

- (i) the User registering the ER Program from which the ERs are being generated has submitted complete and signed original or certified electronic versions of all documentation required by the Registry Operator;
 - (ii) the Registry Operator is satisfied (based solely on the information provided by the User and third parties) that the ER Program for which ERs are to be issued meets the Registry Operational Guidelines;
 - (iii) the User has paid any applicable issuance levy or fee; and
 - (iv) the User has complied with any other requirements specified in the Operational Guidelines or by the Registry Operator from time to time.
- (c) Each ER issued to the User under this Section 7.01 shall have a unique serial number in the Registry.
 - (d) The Registry Operator may, in its sole discretion, refuse to issue ERs to the User's Registry Account.
 - (e) The Registry Operator may, at its discretion, request additional information and include additional requirements, in addition to the information and requirements under these Terms and Conditions, in order to ensure compliance with any other certification scheme.

Section 7.02 *Transfer of ERs*

- (a) The User may request the transfer of ERs from its Registry Account to another Registry Account by submission of a transfer request on the Registry Site to the Registry Operator ("**Transfer Request**"). The Registry Operator reserves the right to reject a Transfer Request in the Registry, including but not limited to when such Transfer Request is not consistent with User's contractual obligations under the FCPF or ISFL, as applicable, the Registry Operational Guidelines, these Terms and Conditions or applicable law.
- (b) To initiate a Transfer Request, an Authorized Representative of the Registry Account from which ERs will be transferred shall submit a Transfer Request to the Registry Operator and the Authorized Representative of the Registry Account into which ERs will be transferred must confirm such request.
- (c) Each Transfer Request shall include the following information as set forth in the Registry Operational Guidelines, including the following:
 - (i) Account numbers of the Registry Accounts from which ERs will be transferred and received;
 - (ii) Number of ERs requested to be transferred; and
 - (iii) Serial number of ERs requested to be transferred.
- (d) A Transfer Request involving or related to the following are prohibited:

- (i) Fraud or an attempt to defraud another entity;
- (ii) A transfer based on false, misleading or inaccurate information;
- (iii) A transfer that would result in Double-Counting, Double-Selling or Double-Claiming; or
- (iv) ERs held in a Non-Tradeable Account.

ARTICLE VIII

Retirement and Cancellation; Buffer

Section 8.01 *Retirement of ERs*

- (a) The User may request that the Registry Operator retire ERs in accordance with the Registry Operational Guidelines and the procedures set out by the Registry Operator.
- (b) Subject to Section 11.03(h), any instruction by the User to the Registry Operator to retire ERs in accordance with this Section 8.01 is irrevocable, and the User acknowledges that any such instruction will not be reversed.
- (c) The Registry Operator acknowledges and agrees that, once the User has complied with this Section 8.01 and the Registry Operator has retired the ERs, the Registry Operator will not take any action to exercise or purport to exercise any right or interest in the retired ERs.

Section 8.02 *Cancellation of ERs*

- (a) The Registry Operator may cancel ERs held in the User's Registry Account in accordance with the Registry Operational Guidelines and the procedures set out by the Registry Operator.
- (b) The Registry Operator may cancel ERs on the Registry, including but not limited to, upon the occurrence of the following:
 - (i) suspension of the User's Registry Account pursuant to Section 15.01(d)(iv);
 - (ii) in the event the ERs are issued on another registry;
 - (iii) an erroneous or fraudulent use of ERs listed in the Registry, including but not limited to the ERs or Buffer ERs being subject to Double-Counting, Double-Selling or Double-Claiming; or
 - (iv) closing of the User's Registry Account pursuant to Section 15.02(c).
- (c) The Registry Operator and the User acknowledge and agree that, once the Registry Operator has cancelled the ERs, neither the Registry Operator nor the User will take any action to exercise or purport to exercise any right or interest, or deal with or otherwise use, the cancelled ERs.

Section 8.03 *ER Program Buffer*

An amount of ERs generated by a registered ER Program shall be held in the ER Program Buffer in accordance with the Operational Guidelines and the ER Program Buffer Guidelines ("Buffer ERs"). The Registry Operator shall utilize the ERs in the ER Program Buffer in accordance with the Registry Operational Guidelines, and following instructions from the Buffer Manager in accordance with the ER Program Buffer Guidelines. Buffer ERs shall be held in a Non-Tradeable Account and the transfer of Buffer ERs shall be prohibited unless such time as the Buffer ERs have been released from the Program ER Buffer in accordance with the ER Program Buffer Guidelines and the Operational Guidelines and transferred to a Tradeable Registry Account. Once held in a Tradeable Registry Account, Buffer ERs shall be treated as ERs and eligible for transfer in accordance with Section 7.02.

ARTICLE IX

Ownership and Legal Title to ERs

Section 9.01 *Ownership of ERs*

User shall only hold or retire in its Registry Account ERs for which it is the sole holder of all legal title and all Beneficial Ownership Rights and User may not hold any Registry Accounts on behalf of one or more third parties, or hold or retire in its Registry Account any ERs on behalf of one or more third parties.

Section 9.02 *Legal Title*

Notwithstanding anything in these Terms and Conditions, the User acknowledges and agrees that the Registry Operator does not in any way make any representations related to, verify or guarantee legal title to the ERs or Buffer ERs and the User relies on any information obtained through the Registry at its own risk. For the avoidance of doubt, the Registry Operator, in its role as managing and administering the Registry, is under no obligation to verify or otherwise enquire into the validity of, or legal title to, the ERs or Buffer ERs.

ARTICLE X

Fees and Charges

Section 10.01 *Registry Fees*

- (a) The User shall pay fees for the use of the Registry to the Registry Operator in accordance with the Fee Schedule posted on the Registry Site ("**Fee Schedule**"). The Fee Schedule may be amended by the Registry Operator from time to time with such amendments effective thirty (30) calendar days after publication of the Fee Schedule on the Registry Site. Continued use of the Registry by the User after a revised Fee Schedule is effective shall be deemed acceptance by the User of the revised Fee Schedule. For the avoidance of doubt, the Registry Operator may require the User to provide an amount of ERs or Buffer ERs to the Registry Operator as a fee for the use of the Registry as set forth in the Fee Schedule.

- (b) Invoices for financial payments will be sent to the User [by email or posted on a secure page on the Registry Site]. All financial payments made to the Registry Operator should be made within fifteen (15) Business Days of receipt of invoice ("**Due Date**") by wire transfer of immediately available funds in United States dollars to the Registry Operator Bank Account.
- (c) For the avoidance of doubt, all taxes, charges, and costs associated with the User's payment of fees shall be borne by the User.

Section 10.02 *Failure to Pay Fees*

- (a) If the User fails to pay any financial fees the User is obligated to pay under these Terms and Conditions by the Due Date, such amounts will be deemed late and will incur interest at the Interest Rate plus seven percent (7%) (per annum) (from and including the Due Date to but excluding the date of payment) as determined by the Registry Operator. The interest amount will be added as a sum owing to the following invoice and there shall be no set-off by either Party.
- (b) If the User fails to transfer ERs or Buffer ERs as payment for use of the Registry, the Registry Operator may require an additional amount of ERs or Buffer ERs to be transferred to the Registry Operator as set forth in the Fee Schedule.
- (c) If delinquent fees are not paid by the User within thirty (30) calendar days of the Due Date, the Registry Operator may suspend the User's access to its Registry Account until such time as the User pays all outstanding fees, inclusive of interest, as applicable.
- (d) Acceptance of late payment or late transfer of any fees or of any interest accrued thereon shall not constitute a waiver by the Registry Operator of the User's default with respect to such late payment, nor prevent the Registry Operator from exercising any other rights or remedies available to it under these Terms and Conditions or any applicable law.

Section 10.03 *Taxes and Charges*

The User shall be responsible for all taxes and charges imposed by a governmental authority related to the use of the Registry and all related hardware, software, and services, and any other costs the User incurs in connection with the purchase, sale, posting, or transfer of ERs or Buffer ERs or any other use of the Registry.

ARTICLE XI

Representations, Warranties and Covenants

Section 11.01 *General*

Each Party represents and warrants to the other Party that:

- (a) the person signing these Terms and Conditions on behalf of that Party has been duly authorized to sign these Terms and Conditions as representative and on behalf of that Party and these Terms and

Conditions constitute legal, valid and binding obligations of that Party, enforceable against that Party in accordance with its terms;

- (b) the execution, delivery and performance of these Terms and Conditions are within its powers, have been duly authorized by all necessary action and do not violate or conflict with, or require any consent or waiver under, any of its constitutional documents or any material contract to which it is a party or to which it or any of its assets is subject, or any law, regulation or permit applicable to it; and
- (c) it has taken all necessary action to authorize the entry into, and the observance and performance of, its obligations under these Terms and Conditions.

Section 11.02 *User Representations and Warranties*

The User represents and warrants, as of the date of these Terms and Conditions and through the Term that:

- (a) it is a financially viable entity and is not insolvent or at risk of becoming insolvent;
- (b) all of the information provided by the User to the Registry Operator is true, accurate and correct and may be relied upon by the Registry Operator and the User will notify the Registry Operator in writing as soon as it is aware of any change to such information;
- (c) it has acted in compliance with the Operational Guidelines and these Terms and Conditions and will continue to do so;
- (d) there are no actions, suits or proceedings pending or, to the User's knowledge, threatened against or affecting the User, the ER Program, the ERs or Buffer ERs before any court or administrative body or arbitral tribunal which could reasonably be expected to materially and adversely affect the ability of the User to meet and carry out its obligations under these Terms and Conditions;
- (e) it has no outstanding agreements or liabilities, contingent or otherwise (including taxes), that could reasonably be expected to affect materially and adversely the ability of the User to meet and carry out its obligations under these Terms and Conditions;
- (f) all legal title to and all beneficial title in each ER or Buffer ER in any User Registry Account are held by the User or by the Principal, in the event the User is acting as Agent;
- (g) it has not, and to the best of its knowledge and belief (after due diligence and due enquiry in accordance with those employment, management and supervisory practices and policies which would reasonably be expected of an internationally reputable person engaged in the same type of undertaking) none of its shareholders, directors, officers, employees, agents, affiliates has engaged in any Sanctionable Practice;
- (h) it will use the Registry for lawful purposes and in a manner that does not infringe upon the rights of the Registry Operator or any third party;
- (i) it will maintain the security of its password and username at all times;

- (j) it has not listed the ERs or Buffer ERs on another registry, exchange or transaction platform;
- (k) it will follow all procedures and guidelines related to the use of the Registry as set forth by the Registry Operator in the Operational Guidelines and in compliance with these Terms and Conditions;
- (l) where the User provides information to the Registry Operator electronically or otherwise interacts with the Registry, the User warrants that in doing so, it will not interfere with or disrupt the operation of the Registry (or its underlying software);
- (m) it will not undertake any action that may in any way bring the Registry Operator into disrepute, including but not limited to listing ERs or Buffer ERs that are the subject of any Dispute or claim or which have been used for other offsetting purposes;
- (n) it is not aware of nor has engaged in Double-Counting, Double-Selling or Double-Claiming of the ERs and Buffer ERs and has taken efforts and will continue to take efforts to avoid Double-Counting, Double-Selling and Double-Claiming of the ERs and Buffer ERs;
- (o) it has not registered and will not register any greenhouse gas reduction or removal simultaneously both in the Registry and in any other system, platform or exchange that tracks, trades, exchanges, transfers or otherwise deals with the emissions, emission reductions, emission offsets, emission credits, or other environmental attributes related to emission reduction projects or activities nor will any transaction of the same emissions, emission reductions, emission offsets, or other environmental attributes related to emission reduction projects or activities be conducted outside of the Registry; and
- (p) it complies with all other relevant laws.

Section 11.03 *User Acknowledgements and Agreements*

The User acknowledges and agrees that:

- (a) the Registry Operator will not give the User access to the Registry until the Registry Operator is satisfied of the information provided in Section 5.01;
- (b) the Registry Operator makes no representations regarding ERs or Buffer ERs or the achievement of any right, title, interest and benefit arising from and associated with such ERs and Buffer ERs;
- (c) the Registry Operator has no fiduciary or other relationship with the User;
- (d) the Registry Operator, in its role of administering the Registry, does not assume any responsibility for settling or performing any third party agreements that may affect the ERs or Buffer ERs on the Registry;
- (e) it is responsible for obtaining and properly using any computer equipment and software necessary to use the Registry and it is solely responsible for any damage to computer systems or loss of data that may result from the User's access to the Registry;
- (f) the Registry Operator does not warrant that the Registry software is free of bugs or errors;

- (g) the access to and use of the Registry is provided "as is" and at the User's own risk and the Registry Operator does not represent or make any warranty in respect of the accuracy, reliability and/or completeness of information contained in the Registry; and
- (h) it has the right and the obligation to instruct the Registry Operator to correct any incorrect or inaccurate information in the Registry and inform the Registry Operator in writing of any changes to that information.

Section 11.04 *Sanctionable Practices*

The User shall not engage in, or authorize or permit any affiliate or any other person acting on its behalf to engage in, any Sanctionable Practice. The User further covenants that should the Registry Operator notify the User of its concerns that there has been a violation of the provisions of this Section 11.04, it shall cooperate in good faith with the Registry Operator and its representatives in determining whether such a violation has occurred, and shall respond promptly and in reasonable detail to any notice from the Registry Operator, and shall furnish documentary support for such response upon the Registry Operator's request.

ARTICLE XII

Force Majeure Events

Section 12.01 *Notice of Force Majeure Event*

- (a) If a Party ("**Affected Party**") is, or anticipates that it will be, unable to perform an obligation under these Terms and Conditions due to the occurrence of a Force Majeure Event, it shall provide the other Party ("**Non-Affected Party**") with written notice providing details of the Force Majeure Event ("**Force Majeure Notice**") within fifteen (15) calendar days of becoming aware of the relevant Force Majeure Event.
- (b) The Affected Party shall take all reasonable steps to remove or mitigate the relevant effects of the Force Majeure Event.

Section 12.02 *Effect of Force Majeure Event*

- (a) If the Affected Party is unable to perform an obligation under these Terms and Conditions due to the occurrence of a Force Majeure Event, such non-performance:
 - (i) will be permitted only during the time and to the extent that performance is prevented by the Force Majeure Event; and
 - (ii) will not give rise to any liability to the Non-Affected Party for any losses or damages arising out of, or in any way connected with, such non-performance during the occurrence of the Force Majeure Event.

ARTICLE XIII

Limitation of Liability and Indemnification

Section 13.01 *Limitation of Liability*

- (a) The User assumes full responsibility and risk of loss resulting from its use of the Registry and will have no claim whatsoever against the Registry Operator or its independent contractors (including, without limitation, the Registry Software Provider), other than where liabilities are determined to have been caused by the Registry Operator's or its independent contractors' gross negligence or willful misconduct as per an arbitration decision issued following the dispute resolution process set out in Section 22.03.
- (b) In no event shall the Registry Operator or the Registry Software Provider be liable for any:
 - (i) consequential, incidental, special, exemplary, punitive or indirect damages;
 - (ii) economic or commercial loss or loss of profits; or
 - (iii) any loss of use, loss of data, loss of business, personal injuries, or property damages, sustained by the User or any third-parties.
- (c) The Registry Operator shall not be liable:
 - (i) for the acceptability of or for any action or omission of any counterparty to or other third party involved in any transaction or arrangement that relates to ERs or that is entered into or consummated with the use of the Registry (including without limitation any ER provider or buyer and any verification or certification provider); or
 - (ii) for the enforceability of or for any loss, expense or other liability arising from any such transaction or arrangement.

Section 13.02 *Indemnification*

- (a) To the fullest extent permitted by law, the User agrees to indemnify, defend, and hold harmless the Registry Operator and its independent contractors (including, without limitation, the Registry Software Provider) and their respective officers, directors, owners, employees, agents, subsidiaries, affiliates, successors and assigns (collectively, the "**Indemnified Party**") against and from any losses, liabilities, damages, judgments, awards, fines, penalties, actions, claims, costs, and expenses, including, without limitation, any amounts paid in settlement or compromise and any fees and costs of counsel and experts, (collectively, "**Losses**") incurred, directly or indirectly, in connection with or by reason of, or in any way relating to, arising out of or attributable to these Terms and Conditions, including but not limited to:
 - (i) the User's use of the Registry or Registry Site or any violation of any law, rule, or regulation arising from such use;
 - (ii) any inaccuracy or breach of any representation or warranty set forth in, and any failure to perform any covenant, obligation or agreement under, these Terms and Conditions by the User, or any violation by the User of these Terms and Conditions or Registry Operational Guidelines;

- (iii) any claim, action or proceeding asserted or brought by a third party arising out of any actual or alleged act or omission of the User, including absence of legal title to the ERs or Buffer ERs;
 - (iv) any failure of any ERs or Buffer ERs posted or transferred by the User on the Registry to conform with the Registry Operator's requirements;
 - (v) any information supplied by or through the User, any transaction or arrangement entered into by the User with any third party, or any misuse or improper disclosure of any information by the User;
 - (vi) any dispute between the User and any third party with respect to any ERs or Buffer ERs (including, without limitation, any such dispute arising from or relating to any transaction between the User and a third party with respect to the purchase, sale, or exchange of ERs or Buffer ERs, or to the aggregation, verification or certification of emissions data or any other data underpinning any right, title, interest and benefit arising from or associated with the ERs and Buffer ERs);
 - (vii) any loss suffered by or other harm to any person or property in any way relating to or caused in whole or in part by the posting, purchase, sale or exchange of ERs or Buffer ERs by the User or any other activity of the User conducted using the Registry;
 - (viii) any action taken by any third person through the User's Registry Account or using the User's password on the Registry; and
 - (ix) the enforcement of the release, indemnity and other obligations referred to in this Section 13.02.
- (b) Notwithstanding the foregoing, the User shall not defend, indemnify or hold harmless an Indemnified Party from and against any Losses to the extent that the Losses are caused by the conduct of such Indemnified Party that an arbitral panel has determined amounted to gross negligence or willful misconduct.

ARTICLE XIV

Prohibition on Double-Counting, Double-Selling and Double-Claiming

Section 14.01 *Exclusivity*

- (a) The User shall not engage in Double-Counting, Double-Selling or Double-Claiming of ERs or Buffer ERs.
- (b) In the event the User becomes aware that any ERs or Buffer ERs may be or have been subject to Double-Counting, Double-Selling or Double-Claiming, the User shall immediately notify the Registry Operator in writing with the details of such Double-Counting, Double-Selling or Double-Claiming.

- (c) In the event the Registry Operator becomes aware or reasonably believes that any ERs or Buffers ERs may be or have been subject to Double-Counting, Double-Selling or Double-Claiming, the Registry Operator may immediately suspend the Registry Account associated with such Double-Counting, Double-Selling or Double-Claiming and take action in accordance with ARTICLE XV and Registry Operational Guidelines.

ARTICLE XV

Suspension and Termination of Registry Accounts

Section 15.01 *Suspension*

- (a) The Registry Operator, in its sole discretion and at any time, may temporarily suspend the User's Registry Account, the User's access to the Registry and/or the User's ability to transfer, cancel or retire any ERs or Buffer ERs with immediate effect and without notice if the Registry Operator reasonably believes that:
 - (i) the User is not in compliance with these Terms and Conditions or the procedures set out by the Registry Operator, including the Registry Operational Guidelines;
 - (ii) any ERs or Buffer ERs listed by or on behalf of the User are fraudulently or illegally created;
 - (iii) accreditation or approval for the ER Program or any ERs or Buffer ERs listed by or on behalf of the User is withdrawn or threatened to be withdrawn for any reason;
 - (iv) if the User is acting as an Agent, the authorization to act in that capacity has been revoked;
 - (v) any ERs or Buffer ERs have been or are suspected to be subject to Double-Counting, Double-Selling or Double-Claiming; or
 - (vi) any ERs or Buffer ERs (or the ER Program generating the ERs or Buffer ERs) listed by or on behalf of the User are the subject of, or become the subject of, a Dispute.
- (b) While the User's access to the Registry and/or its Registry Account is temporarily suspended under Section 15.01(a), the User will have no right to any ERs or Buffer ERs in the Registry and any instruction by the User to the Registry Operator to list an ER Program, issue ERs or Buffer ERs, or record the transfer of or retire ERs or Buffer ERs in the Registry will be rejected.
- (c) Upon notification by the Registry Operator of temporary suspension pursuant to this Section 15.01, the User will have ten (10) Business Days to:
 - (i) show cause in writing as to why the User should not be permanently suspended from the Registry and why the ERs or Buffer ERs should not be cancelled; and
 - (ii) where requested by the Registry Operator, supply to the Registry Operator, ERs or Buffer ERs of a quality and quantity specified by the Registry Operator.

- (d) If within the ten (10) Business Day period, the User fails, to the satisfaction of the Registry Operator in its sole discretion, to show cause and/or provide replacement ERs or Buffer ERs, the Registry Operator may exercise one or more of the following rights:
- (i) maintain the temporary suspension;
 - (ii) permanently suspend the User from the Registry;
 - (iii) close the User's Registry Account(s) (in which case the provisions of Section 15.02 shall apply);
 - (iv) cancel the disputed ERs or disputed Buffer ERs and transfer such ERs into the Cancellation Account; and/or
 - (v) terminate these Terms and Conditions under Section 21.01.

Section 15.02 *Closing a Registry Account*

- (a) The Registry Operator may close and cancel the User's Registry Account for any reason upon thirty (30) calendar days written notice to the User, provided that in the instance of the User's breach of these Terms and Conditions, the Registry Operator may close the User's Registry Account immediately.
- (b) The User may close its Registry Account, for any reason, by providing at least thirty (30) calendar days written notice to the Registry Operator. The User's obligation to pay any and all Fees due under the Fee Schedule and these Terms and Conditions at the time of closing shall survive such termination.
- (c) Upon closing of the User's Registry Account, the Registry Operator shall transfer all ERs or Buffer ERs held in such User's Registry Account to the Cancellation Account.

ARTICLE XVI

Default

Section 16.01 Default

- (a) The occurrence of any of the following shall be considered a "**Default**":
 - (i) all or substantially all of the User's assets are attached or levied under execution (and the User does not discharge the same within sixty (60) days thereafter);
 - (ii) a petition in bankruptcy, insolvency, for reorganization or a similar arrangement is filed by or against the User (and the User fails to secure a stay or discharge thereof within sixty (60) days thereafter);

- (iii) the User is insolvent and unable to pay its debts as they become due; the User makes a general assignment for the benefit of creditors; the User takes the benefit of any insolvency action or law; the appointment of a receiver or trustee in bankruptcy for the User or its assets if such receivership has not been vacated or set aside within thirty (30) days thereafter; or, dissolution or other failure to exist of the User if the User is an entity; and
 - (iv) the User falsifies or misrepresents any data or other information submitted to the Registry Operator or inputted into the Registry by the User or commits any fraudulent act in connection with the activities under these Terms and Conditions.
- (b) **Remedies.** Upon the occurrence of any Default, the Registry Operator may terminate these Terms and Conditions immediately upon becoming aware of such breach by the User and shall have those rights and remedies stated elsewhere in the Registry Operational Guidelines and these Terms and Conditions.
- (c) **Nonwaiver of Defaults.** The failure or delay of the Registry Operator in exercising any of its rights or remedies or other provisions of the Registry Operational Guidelines or these Terms and Conditions shall not constitute a waiver thereof or affect the Registry Operator's right thereafter to exercise or enforce such right or remedy or other provision. No waiver of any Default shall be deemed to be a waiver of any other Default.

ARTICLE XVII

Intellectual Property

Section 17.01 *Intellectual Property Rights*

- (a) The Registry, and any and all content of the Registry, are protected by copyright and/or other intellectual property laws and any unauthorized use of such intellectual property or information or the Registry may violate such laws related to their protection. The User acknowledges that the Registry Operator is and shall remain the sole owner of all aggregated data embodied in the Registry, and of the selection, arrangement and compilation of such aggregated data.
- (b) Except as expressly provided herein, none of the Registry Operator or any of its affiliates grants any express or implied right or license of any kind to the User under any patents, copyrights, trademarks, or trade secret information with respect to such intellectual property and/or information and/or the Registry.
- (c) The User hereby grants to the Registry Operator and the Registry Software Provider, a perpetual, royalty-free license to:
- (i) use, reproduce, distribute, display and prepare derivative works from data provided by the User ("**User Data**") and Confidential Information provided by the User; and
 - (ii) grant sublicenses to such User Data and Confidential Information to subcontractors and other third parties,

in each case to the extent reasonably necessary to perform any obligations of the Registry Operator under these Terms and Conditions, the Registry Operational Guidelines, and to fulfil the purposes of the Registry.

ARTICLE XVIII

Data privacy

Section 18.01 *Personal Data*

- (a) The User acknowledges that the Registry Operator and its representatives will need to collect and process certain information related to an identified or identifiable individual ("**Personal Data**") in connection with the User's application for or use of the Registry, including the name, address, contact information, and due diligence check information relating to the User and other individuals whose Personal Data the User provides to the Registry Operator ("**Other Data Subjects**"). The Registry Operator and its representatives may collect Personal Data from various sources, including directly from the User and from third party sources.
- (b) With respect to any Personal Data regarding the User that the User provides to the Registry Operator about Other Data Subjects, the User acknowledges and agrees that (i) it has been provided with a notice relating to the processing of the User's Personal Data by the Registry Operator for the purposes of the Registry, (ii) it understands that such Personal Data will be processed in accordance with the applicable policies and procedures of the Registry Operator, including but not limited to the Policy on Personal Data Privacy, and (iii) such processing is necessary in order for the Registry Operator to provide the Registry.
- (c) With respect to any Personal Data regarding Other Data Subjects that User provides to the Registry Operator, the User represents and warrants that it is entitled to and has all necessary rights, permissions and consents (including from the applicable Other Data Subjects to whom the Personal Data provided by the User relates) and provided all necessary notices and disclosures (including with regards to the processing by the Registry Operator hereunder) to (i) lawfully transfer the Personal Data to the Registry Operator (including in the United States), and (ii) permit the Registry Operator to lawfully process the Personal Data as described herein and in the Policy on Personal Data Privacy.

ARTICLE XIX

Limited Warranty/Disclaimer of Warranties

Section 19.01 *Limited Warranty*

- (a) The data contained in the Registry has been gathered by the Registry Operator from sources believed by the Registry Operator to be reliable. However, neither the Registry Operator nor the Registry Software Provider warrants that the information in the Registry is correct, complete, current, or accurate, or that the software programs used in the Registry will be error or bug-free, secure or free from service disruption.

- (b) The User acknowledges, understands and accepts that the Registry is provided on an "As Is" basis at the User's sole risk. Neither the Registry Operator nor the Registry Software Provider makes any representations, or warranties, express or implied, with respect to these Terms and Conditions, the procedures set out by the Registry Operator, or the adequacy or performance of the Registry. The Registry Operator and the Registry Software Provider hereby disclaim any such warranties, including but not limited to warranties of merchantability, non-infringement or fitness for a particular purpose, and any implied warranties arising from any course of dealing, usage, or trade practice.
- (c) The User acknowledges that service or maintenance disruptions may occur from time to time. The Registry Operator further disclaims liability for:
 - (i) errors, omissions or other inaccuracies in any party of the Registry, or the reports, ERs, Buffer ERs or other information compiled or produced by or from or input into the Registry;
 - (ii) any delays, omissions or interruptions therein;
 - (iii) for the acts or omissions of any Authorized Representatives that utilize the Registry services on behalf of the User; and
 - (iv) for the acts or omissions of the User acting as Agent.
- (d) The Registry Operator is not responsible for the acts or omissions of parties who aggregate, input, verify or certify data for the Registry or from whom data is obtained for inclusion in the Registry, nor is the Registry Operator responsible for any obligation of the User to provide or deliver a product or service or to pay another user for a product or service.
- (e) Neither the Registry Operator nor the Registry Software Provider assumes any responsibility for, and neither shall be liable for, any damages to, or viruses that may infect, the User's equipment or other property on its Registry Account or the User's access to and use of the Registry.
- (f) The User is solely responsible for the protection, security, and management of its computer network and of all usage thereof. Neither the Registry nor the Registry Software Provider will compensate the User for damages incurred due to violations of the security of the User's computer network, nor shall the User make deductions or set offs of any kind from or against fees due to the Registry Operator in respect of any such damages.

ARTICLE XX

Confidentiality; Disclosure and Sharing of Confidential Information

Section 20.01 *Confidentiality*

- (a) The Registry Operator shall use and maintain Confidential Information provided by the User in accordance with these Terms and Conditions and the Registry Operational Guidelines.
- (b) The Registry Operator and the User shall each use reasonable efforts to protect any Confidential Information of the other Party from unauthorized disclosure or use, using at least the same level of care as it uses to protect its own Confidential Information.
- (c) If the User obtains access to data in the Registry that: (i) is not data provided or owned by the User; (ii) is not part of a publicly available Registry report; and (iii) the User is not otherwise authorized to use, then, regardless of whether such data is Confidential Information, the User shall:
 - (i) immediately notify the Registry Operator that the User has obtained such access;
 - (ii) not disclose, disseminate, copy, or use any such information; and
 - (iii) promptly take any and all actions as may be required by the Registry Operator, including but not limited to, returning and/or deleting the information so accessed.

Section 20.02 *Disclosure and Sharing of Confidential Information*

- (a) Neither Party will, without the prior written consent of the other Party, publicly disclose the Confidential Information, or information related to the Confidential Information, other than as provided in these Terms and Conditions.
- (b) The User acknowledges that the Registry Operator will share Confidential Information with the Registry Software Provider for the purpose of maintaining the Registry and, exclusively for such purpose, consents to and authorizes data sharing between the Registry Operator and the Registry Software Provider.
- (c) The Parties may only share the Confidential Information with their employees, agents, contractors (including subcontractors), representatives, affiliates, principals and advisers who need to know the Confidential Information and who are aware of the confidentiality obligations set out in this Article XIX.
- (d) If the Registry Operator issues, transfers, cancels or retires one or more ERs or Buffer ERs, notwithstanding anything to the contrary in these Terms and Conditions, the following information related to such issuance, transfer, cancellation or retirement shall be subject to public disclosure by or at the direction of the Registry Operator, in such manner (including, without limitation, by inclusion in one or more reports posted on the Registry Site) and at such times as the Registry Operator may determine in its sole discretion:
 - (i) the name of the User;

- (ii) the number of issued, transferred, cancelled or retired ERs or Buffer ERs;
 - (iii) the vintage and serial numbers of the issued, transferred, cancelled or retired ERs or Buffer ERs;
 - (iv) the date of such issuance, transfer, cancellation or retirement;
 - (v) the name, type and identification number of the ER Program and the location of the ER Program associated with the issued, transferred, cancelled or retired ERs or Buffer ERs;
 - (vi) if applicable, a statement to the effect that the issuance, transfer, cancellation or retirement was effected on behalf of another person or organization; and
 - (vii) any other information voluntarily disclosed by the User to the Registry Operator regarding the reason for the issuance, transfer, cancellation or retirement.
- (e) The obligations of the Parties under this **Error! Reference source not found.**Section 20.02 shall not apply to any Confidential Information that:
- (i) is or becomes publicly known otherwise than pursuant to breach of these Terms and Conditions by either Party;
 - (ii) is or becomes available to the Registry Operator from sources which to the Registry Operator's knowledge are under no obligation of confidentiality with respect to the information;
 - (iii) is Public Personal Data;
 - (iv) the concerned Party agrees in writing that the information may be publicly disclosed;
 - (v) is required to be disclosed by action of any court, tribunal or regulatory authority or by any requirement of law, legal process, regulation, or governmental order, decree or rule or necessary or desirable for the World Bank to disclose in connection with any proceeding in any court, tribunal or before any regulatory authority in order to preserve its rights;
 - (vi) is required to be disclosed in order to facilitate the issuance, transfer, cancellation and retirement of ERs and Buffer ERs;
 - (vii) is aggregated together with other information in the Registry so that the individual user cannot be identified or linked to such information; or
 - (viii) must be shared with the Registry Operator's subcontractors for the purposes of maintenance and operation of the Registry.

ARTICLE XXI

Termination

Section 21.01 *Termination*

- (a) In addition to other termination rights expressly enumerated in these Terms and Conditions, either Party may terminate these Terms and Conditions by providing thirty (30) calendar days written notice to the other Party. The User's obligation to pay any and all fees due under the Fee Schedule and these Terms and Conditions at the time of termination shall survive such termination.
- (b) Upon termination of these Terms and Conditions, the Registry Operator shall close the User's Registry Account in accordance with Section 15.02.
- (c) If these Terms and Conditions are terminated, the following provisions shall survive termination: Section 8.01 XIII (Retirement and Cancellation), ARTICLE X (Registry Fees), ARTICLE XIII (Limitation of Liability and Indemnification), ARTICLE XVII (Intellectual Property Rights), ARTICLE XIX (Limited Warranty/Disclaimer of Warranties), ARTICLE XX (Confidentiality and Disclosure) and Section 22.03 (Miscellaneous).

ARTICLE XXII

Miscellaneous

Section 22.01 *Amendments to the Terms and Conditions*

The Registry Operator may modify these Terms and Conditions from time to time at the Registry Operator's discretion. Any such modification takes effect at the time specified by the Registry Operator and without the requirement for the User's prior consent. Continued access and use of the Registry after modification of the Terms and Conditions shall constitute agreement to be bound by the modified Terms and Conditions. The User agrees to take affirmative responsibility for the compliance of any Authorized Representative with these Terms and Conditions.

Section 22.02 *Governing Law; Third-Party Rights*

- (a) These Terms and Conditions will be governed and construed in accordance with English law (without giving effect to the laws of England relating to conflict of laws which may lead to the choice of another body of law) and each Party agrees to submit to the jurisdiction of the dispute resolution body described in Section 22.03.
- (b) A person who is not a party to these Terms and Conditions, including without limitation any third party having Beneficial Ownership Rights in an ER, shall not have any rights under the *Contracts (Rights of Third Parties) Act 1999* of the United Kingdom to enforce, or to enjoy the benefit of, any provision of these Terms and Conditions.

Section 22.03 *Dispute Resolution*

- (a) The Registry Operator and the User shall endeavor to settle amicably any dispute between them arising out of or relating to these Terms and Conditions or the breach, termination or invalidity thereof ("**Dispute**"). Upon the written request of either Party ("**Initial Request**"), the Parties shall meet promptly to consider the Dispute.
- (b) If the Dispute has not been resolved by the Parties within sixty (60) calendar days of the date of the Initial Request, the Parties may seek an amicable settlement of the Dispute by conciliation, which shall take place in accordance with the UNCITRAL Conciliation Rules as at present in force. The Parties shall endeavor to reach agreement on the name of a sole conciliator, failing which either Party may request the Secretary-General of the Permanent Court of Arbitration to appoint the sole conciliator. Unless agreed otherwise in these Terms and Conditions, the place of conciliation shall be Washington D.C.
- (c) Should either Party refuse to seek an amicable settlement by conciliation, or should the conciliation proceedings be unsuccessfully terminated, either Party may, by notice in writing to the other, refer the settlement of the Dispute to arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force. The appointing authority shall be the Secretary-General of the Permanent Court of Arbitration, and the number of arbitrators shall be one. Unless agreed otherwise in these Terms and Conditions, the place of arbitration shall be Washington D.C.

Section 22.04 *IBRD Capacity; Non-Recourse; Privileges and Immunities*

- (a) These Terms and Conditions are entered into by the IBRD, not personally or in its individual capacity, but as administrator of the Registry.
- (b) Nothing in these Terms and Conditions shall be considered to be a waiver of any privileges or immunities of the IBRD or its respective officers, employees, representatives or agents, under the Articles of Agreement of the IBRD or any applicable law. All such privileges and immunities are expressly reserved.

Section 22.05 *Rights Cumulative*

If any provision or part of a provision of these Terms and Conditions is found by an arbitrator to be void or unenforceable, that provision or part of a provision is to be deemed deleted from these Terms and Conditions and the remaining provisions will continue in full force and effect.

Section 22.06 *Assignment*

The User may not assign or novate its rights or obligations under these Terms and Conditions without the written consent of the Registry Operator, to be given by the Registry Operator's sole discretion.

Section 22.07 *Relationship Between the Parties*

Nothing in these Terms and Conditions will be taken to create a relationship between the parties of joint venture, fiduciary relationship, partnership or other joint undertaking.

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