

# Terms of Use

## AMERICAN CARBON REGISTRY

2024-04-15

The following are the Terms of Use for the American Carbon Registry (ACR) online registry system (the “Registry”), operated and administered by Environmental Resources Trust, a wholly owned subsidiary of Winrock International, doing business as American Carbon Registry®, an Arkansas non profit corporation (“ACR”SM or “Administrator”). The Registry, ACR Standard, ACR Validation and Verification Standard, and published ACR methodologies comprise ACR’s system for governing greenhouse gas (GHG) emission reduction and removal projects and carbon credits and are owned by and constitute the valuable intellectual property of ACR. These Terms of Use are in addition to other ACR guidance applicable to your use of the Registry, which are located online at the ACR Website and/or the Registry Site. In the event these Terms of Use conflict or are inconsistent with other ACR terms, rules, guidelines, policies, and procedures, including but not limited to the ACR Standard, ACR Validation and Verification Standard, published ACR methodologies, ACR Registry Operating Procedures, ACR Fee Schedule, ACR Digital Assets Policy and Procedures, ACR Website Terms of Use, ACR Privacy Policy, and legal disclaimers (collectively referred to herein as the “Operative Documents”), the provisions of these Terms of Use shall control for the services referenced herein.

**1. Acceptance of Terms.** Your use of the Registry and the Registry Site is subject to the following Terms of Use, which constitute a binding contract between you, the organization with a Registry account (also referred to herein as “Account Holder”) as user of the Registry, and ACR as administrator and owner of the Registry. Account Holder and Administrator, are individually referred to herein as a “Party”, and collectively referred to herein as the “Parties”. BY USING OR ACCESSING THE REGISTRY, YOU ACCEPT AND AGREE TO BE BOUND BY THESE TERMS OF USE, EXCEPT AS PROHIBITED BY LAW WHERE THE ACCOUNT HOLDER IS A STATE OR PUBLIC ENTITY, AS MODIFIED FROM TIME TO TIME IN ACCORDANCE WITH THE TERMS HEREOF, AND YOU AGREE TO TAKE AFFIRMATIVE RESPONSIBILITY FOR THE COMPLIANCE OF YOUR USERS WITH THESE TERMS OF USE. You can review the current version of the Terms of Use at any time at the ACR Website. Account Holders will be notified of modifications to the Terms of Use, which will go into effect and be binding forty five (45) days after such notice is provided. MAINTENANCE OF YOUR REGISTRY ACCOUNT AS WELL AS CONTINUED USE AND ACCESS OF THE REGISTRY BY YOU AND/OR YOUR USERS AFTER MODIFICATION OF THE TERMS OF USE SIGNIFIES YOUR AGREEMENT TO BE BOUND BY THE MODIFIED TERMS OF USE AND YOUR AGREEMENT TO TAKE AFFIRMATIVE RESPONSIBILITY FOR THE COMPLIANCE OF YOUR USERS WITH THESE MODIFIED TERMS OF USE. In addition, when using the Registry, you shall be subject to any ACR

rules, guidelines, and/or operating procedures applicable to such use which may be posted at the ACR Website and/or Registry Site, including but not limited to the Operative Documents, each as modified or restated from time to time. If you do not agree to these Terms of Use, you and your users may not access or otherwise use the Registry. Users include all individuals, being internal or external to the Account Holder organization, accessing the Registry via a login ID associated with the Registry account, including owners, trustees, members, officers, directors, employees, consultants and/or any other agents to whom it has provided access to the Registry (collectively referred to herein as the “Representatives” or “Users”).

## **2. Capitalized Terms; Definitions.**

Defined terms in these Terms of Use, which may be identified by the capitalization of the first letter of each principal word thereof, have the meanings assigned to them in Appendix A, which is hereby incorporated herein. Any capitalized terms contained herein that are not otherwise defined herein shall have the meanings as such terms are defined in the Operative Documents and, as terms apply to compliance offset projects registered with ACR, as such terms are defined in the applicable regulation, rule, and/or publicly available guidance of the relevant regulatory or governing body of the compliance offset program.

## **3. Description of Service.**

(a) The Registry serves as an informative system for the listing, registration, independent validation, and independent verification of ACR and compliance offset projects as well as the issuance, transfer, cancellation, and retirement of, and custodial services for, Emission Reduction Tons (ERTs) and Registry Offset Credits (ROCs) within the Registry. The data comprising the Registry shall include GHG project and emissions information provided to Administrator by a Project Proponent and validated and verified by an approved Verifier.

(b) The Registry is an assembly of data on GHG projects and ERTs or ROCs that is verified, validated, and provided by third parties, and serves only for informational purposes. Any issues or disputes that may arise between the Account Holder, other participants in the Registry, whether a holder of an account or otherwise (“Registry Participants”), and third parties from the use of the Registry or the data (including without limitation in connection with the validity of GHG project data, with the purchase and sale of ERTs or ROCs, or whether an ownership interest, Beneficial Ownership Rights, security interest, or other proprietary interest is created in any ERT or ROC, shall be addressed between the Account Holder and such Registry Participant or third party. Neither the Registry nor Administrator will address any such issues and neither shall have any liability with respect to any such issues. Administrator reserves the right to dispose of any disputed ERTs or ROCs by interpleader or other suitable action in the event of controversy and to deposit any ERTs or ROCs or other items subject of the interpleader action with the relevant court or arbitral panel.

(c) Administrator may provide Registry functionality allowing Account Holders, at Account Holders’ option and upon notice to Administrator, to link all or a portion of their Registry account data to third party organizations via an Application Programming Interface (API). Any such

third-party linkage shall have no effect on the applicability or scope of these Terms of Use to Account Holders and neither the Registry Operator nor Administrator shall have any liability with respect to ERTs or ROCs transacted or managed via a linked third party system.

(d) Administrator reserves the further right, in its sole discretion, to modify, augment, segment, reformat, reconfigure, or otherwise alter at any time the content or methods of transmission of the Registry, the Operative Documents, or these Terms of Use and create new types or versions of the Registry, the Operative Documents or these Terms of Use. Administrator shall not be required to comply with any provisions of any Operative Document to the extent that Administrator determines in its reasonable discretion that such compliance would have a material adverse effect on the Registry; provided, that Administrator shall report to Account Holder any such non compliance within thirty (30) days after such non compliance is first discovered. Administrator shall provide Account Holder with at least forty five (45) days prior notice of material changes to these Terms of Use, and such changes shall be effective upon the date set forth in the notice, which may be given by any means, including without limitation posting on the Registry Site, or by electronic or conventional mail. All other changes shall be effective upon their being posted on the ACR Website or Registry Site. Any use of the Registry by Account Holder after a change has gone into effect shall be deemed to constitute acceptance of such change.

#### **4. Authorized User; Personal Information.**

(a) The rights and obligations of these Terms of Use shall run to the named Parties and their successors in interest and authorized assigns. Account Holder shall ensure that any of its Users agree to comply with the Operative Documents and these Terms of Use.

(b) Having applied to participate in the Registry, Account Holder shall assign a single Account Manager for the Registry account who shall be responsible for maintaining the accuracy of the contact information for the Account Manager, billing contact, and all other authorized Users.

(c) Account Holder acknowledges and agrees that the rights and licenses provided under these Terms of Use and the Operative Documents are solely for the benefit of Account Holder and are to be exercised only in connection with Account Holder's and its Representatives' use of the Registry. Without limiting the generality of the foregoing, except as set forth in this Section 4 and in Section 21, or except with respect to Beneficial Ownership Rights that are permitted by these Terms of Use, Account Holder may not transfer or sublicense its rights, licenses, or account, or any portion thereof, to any third party.

(d) Having applied to participate in the Registry, Account Holder accepts that Administrator, its representatives, successors, and assigns, will need to collect certain information in connection with its application or transaction with Administrator, including but not limited to Registry account Users' names, contact information, login name, password, security questions and answer, as set forth in the ACR Privacy Policy available on the ACR Website ("Personal Information"). If Account Holder discloses any Personal Information relating to third parties, Account Holder Represents that it has the authority to do so and to permit Administrator to use the information in accordance with

these Terms of Use and the ACR Privacy Policy. Account Holder hereby expressly and freely consents and authorizes Administrator to use and disclose such Personal Information and other information as described in the ACR Privacy Policy. You acknowledge and agree that the Registry Operator, and other entities may from time to time acquire, access, retain, and use information from publicly available sources, including without limitation public portions of the Registry Site that may contain information identical to Personal Information. Nothing contained herein shall restrict the Registry Operator and/or other organizations from accessing, retaining, and using such publicly available information for its own purposes, even if such publicly available information is identical to Personal Information.

## **5. Ownership and Use of Data and the Registry.**

(a) Account Holder acknowledges that (i) Confidential Information, as defined in Section 15(b) hereof, is, and shall remain, the exclusive property of the Registry Participant, who submitted it or on whose behalf it was submitted, and (ii) Administrator is, and shall remain, the sole owner or authorized licensee of all data comprising the Registry (except as provided in Section 15(c) hereof) (“Registry Data”) and of the Registry operating system, including any components, modifications, adaptations, and copies thereof. Without limiting any of the foregoing, Account Holder further acknowledges and agrees that any and all Software is proprietary Software of Administrator and/or its affiliates and third party providers. Except as provided herein, Account Holder shall not obtain, have, or retain any right, title, or interest in or to the Registry or the Software or any part thereof. Account Holder acknowledges and agrees that Administrator is, and shall remain, the sole owner of any registration required to access or use the Registry, including without limitation any and all intellectual property rights therein. The rights granted to Account Holder are solely defined by these Terms of Use and the Operative Documents as in effect at the time and include but are not limited to permission to use the Registry as set forth herein and therein. Account Holder’s rights under these Terms of Use do not include a transfer of title or any other ownership interest in the Registry, its content, or any part thereof to Account Holder. Account Holder agrees not to contest or challenge Administrator’s or its third party suppliers’ ownership of the Registry Data, the Software, and associated intellectual property rights and not to take any action that would infringe, misappropriate, constitute unfair competition with respect to, or otherwise violate the ACR Standards, Administrator’s or their third party suppliers’ ownership of or rights in the Registry Data, the Registry, or the Software.

(b) Except as otherwise provided in the Operative Documents and Section 15(c) hereof, Account Holder acknowledges that once Account Holder transmits data to the Registry, such data becomes Registry Data and the property of Administrator. Except in accordance with Administrator’s normal operating procedures, data in the Registry, including Confidential Information, cannot and will not be deleted, removed, or otherwise expunged or segregated, including in the event Account Holder terminates its use of the Registry or any account or sub account in the Registry or is terminated pursuant to Section 13 hereof. To the extent any data submitted by or on behalf of Account Holder is and remains Confidential Information, Account Holder grants Administrator a perpetual, irrevocable, worldwide, royalty free, and non-exclusive license to retain and use such data in the Registry, subject to the obligations set forth in these Terms of Use applicable to such Confidential Information.

(c) Account Holder agrees that Administrator may share information provided by Account Holder, including Personal Information and/or Confidential Information, with third parties (including, without limitation, as reasonably necessary for or reasonably in support of tasks necessary to provide the services), so long as Administrator has written terms and conditions with each such third party requiring that the third party maintain and protect the confidentiality of the data and information and maintain conformance with Applicable Laws.

(d) Account Holder acknowledges that the data transmitted by the Registry is derived from proprietary and public third party sources, including but not limited to data from Registry Participants other than Account Holder, Administrator, and Verifiers.

(e) Account Holder and its Representatives will not use the Registry for any unlawful purpose or in an unlawful manner and will adhere to all applicable laws and regulations including for climate disclosure and claims. Account Holder is prohibited from relying on, reporting, or otherwise making claims about use of the Registry or Registry Data to mislead or deceive any consumer, investor or other stakeholder with respect to its fulfillment of an emission reduction obligation, whether voluntary or mandatory. Account Holder shall prevent the use or copying of the Registry and any other supporting materials by Account Holder's Representatives except as permitted by the terms of these Terms of Use.

(f) Account Holder represents that it has legal title to, or has been authorized to act on behalf of the holder of legal title to, the data provided to the Registry by Account Holder and acknowledges that Administrator cannot be held liable in the event of misrepresentation of ownership thereof by Account Holder. In the event Account Holder has been authorized to act on behalf of the holder of legal title to data, Account Holder agrees to, at the request of the Administrator, provide Administrator with a legally binding document confirming such authorization, which document will be reasonably acceptable to Administrator. Account Holder represents that all data and other information it provides to ACR, Administrator, and the Registry shall be true, correct, and complete in all material respects to the best of its knowledge, information, and belief.

(g) Account Holder will notify Administrator of any issues surrounding the issuance of ERTs or ROCs deposited to Account Holder, including but not limited to an issuance that is not valid or does not display properly or as expected. Project Developer Account Holders acknowledge and agree that in the event that Administrator or a regulatory or governing body to whom ACR serves as an Offset Project Registry determines that GHG reductions or removals for a GHG project were incorrectly quantified, reported, or issued such that the number of ERTs or ROCs issued to the Project Developer Account Holder was in excess of the correct number according to (i) the requirements of the applicable methodology and/or Operative Documents in force at the time of an ERT issuance or (ii) the applicable protocol, regulation, rule, and/or publicly available guidance of the relevant regulatory or governing body of the compliance offset program in force at the time of a ROC issuance, it is the Project Developer Account Holder's responsibility to compensate for the over-issuance of ERTs or ROCs, irrespective of whether the ERTs or ROCs are still held by the Project Developer Account Holder.

(i) In the event that an over-issuance is determined, Administrator will notify the Project Developer Account Holder of the over-issuance, including the basis for its determination; the number of ERTs or ROCs to be surrendered for cancellation or authorized to be withheld from a future issuance; a deadline no less than 30 days from the notification for satisfying these obligations; and which option or combination of the following options the Project Developer Account Holder may use, as determined by the Administrator in its sole discretion: (1) Surrender ERTs or ROCs from the over-issuance still held by the Project Developer Account Holder for cancellation, (2) Surrender other ERTs or ROCs, as applicable, held or acquired by the Project Developer Account Holder for cancellation, and/or (3) Provide written authorization to Administrator to withhold ERTs or ROCs from future issuances to the GHG project.

(ii) If the Project Developer Account Holder fails to satisfy its obligations within the allotted timeline, Administrator may: (1) Cancel ERTs or ROCs held by the Project Developer Account Holder, (2) Withhold from issuance ERTs or ROCs otherwise issuable to the Project Developer Account Holder, and/or (3) Purchase ERTs or ROCs from third parties at the Project Developer Account Holder's expense and cancel them.

(iii) The obligation to compensate for any over-issuance of ERTs or ROCs survives termination or expiration of these Terms of Use.

(h) Administrator grants Account Holder non-exclusive permission to access, retrieve, and download data from the Registry subject to these Terms of Use and the Operative Documents, which grant shall not be effective until

(i) Account Holder has: (1) completed and submitted to Administrator the online registration available on the Registry Site and (2) paid all applicable fees due under the Operative Documents; and

(ii) Administrator, in its sole discretion, has approved Account Holder's registration. Account Holder will take all appropriate steps and precautions to safeguard and protect the access, use, and security of the Registry and User's access information from unauthorized users.

(i) Administrator reserves all rights in the Registry not expressly granted to Account Holder in these Terms of Use.

(j) To Administrator's actual knowledge, the Software does not infringe any intellectual property rights of third parties.

## **6. Ownership of ERTs and ROCs; Action with Respect to ERTs and ROCs on Behalf of Third Parties.**

(a) General Prohibition on Third Party Ownership. Except as otherwise permitted under Sections 6(b), 6(c), 6(d), or 6(e) below:

(i) Account Holder will only hold or retire in its accounts ERTs and ROCs for which it is the sole holder of all legal Title and all Beneficial Ownership Rights;

(ii) Account Holder may not hold any accounts, or hold or retire in its accounts, any ERTs or ROCs on behalf of one or more third parties; and

(iii) Account Holder may not utilize a third party who retails carbon credits to the general public, which may include organizations, utility customers and/or individual consumers, via any type of marketplace unless or until the operator itself has an active Registry account with the approval described in Sections 6(d) or 6(e) below. For the avoidance of doubt, this does not preclude Account Holder from working with a broker, who may or may not have an active Registry account, on bilateral emission reduction purchase agreements, or similar, for carbon credits not offered on External Marketplaces.

(b) Omnibus Retirement or Cancellation Exception. Account Holder with a Project Developer or Transaction account type may retire or cancel ERTs or ROCs on behalf of one or more third parties (“Omnibus Retirements”), provided that:

(i) Account Holder’s Registry profile indicates it is approved for Omnibus Retirements;

(ii) the third-party individual or organization with all legal Title to and/or all Beneficial Ownership Rights in any ERT(s) or ROC(s) is a single entity without its own active Registry account (the “Indirect Owner”) that has authorized Account Holder in writing to retire or cancel such ERT(s) or ROC(s) on their behalf (except to the extent that Account Holder may be deemed to hold or share with the applicable Indirect Owner any legal Title to or Beneficial Ownership Rights in such ERT or ROC), documentation of which will be made available to Administrator upon request;

(iii) any such retirement or cancellation is effected only in the manner set forth in the ACR Registry Operating Procedures, inclusive of identifying the Indirect Owner and the purpose of retirement;

(iv) any Omnibus Retirement shall be effected solely on behalf of the named Indirect Owner who is itself the final beneficiary making the associated environmental claim; and

(v) upon request from the Administrator, the Account Holder will make available to Administrator additional details relevant to any Omnibus Retirements.

(c) Omnibus Holdings Exception. Account Holder with a Project Developer or Transaction account type may hold and/or transact ERTs or ROCs in its account(s) on behalf of one or more Indirect Owners (“Omnibus Holdings”), provided that:

(i) Account Holder’s Registry profile indicates it is approved for Omnibus Holdings.

(ii) Account Holder is a Regulated Person and has notified Administrator of its status as a Regulated Person in writing upon applying to participate in the Registry; provided, however, that Administrator may, in its sole discretion, waive the requirements set forth in this paragraph (ii) with respect to Account Holder, with such waiver indicated per Section 6(c)(i);

(iii) Account Holder complies with all Applicable Laws, regulations or other legally enforceable requirements, including without limitation applicable provisions of the USA PATRIOT Act and the regulations of the Office of Foreign Assets Control of the U.S. Department of the Treasury;

(iv) Account Holder maintains an auditable customer identification program or other traceability measures that ensure procedures to verify the identity of any individual(s) or organization(s) on whose behalf Account Holder is holding ERTs or ROCs and maintains records of the information used to verify such identity, which records will be made available to Administrator upon request;

(v) the Indirect Owner has authorized Account Holder in writing to hold ERT(s) or ROC(s) on their behalf (except to the extent that Account Holder may be deemed to hold or share with the applicable Indirect Owners any legal Title to or Beneficial Ownership Rights in such ERT or ROC), documentation of which will be made available to Administrator upon request; and

(vi) if Account Holder is effecting transfers on behalf of an Indirect Owner, the Indirect Owner has authorized Account Holder in writing to transfer ERT(s) or ROC(s) on their behalf (except to the extent that Account Holder may be deemed to hold or share with the applicable Indirect Owners any legal Title to or Beneficial Ownership Rights in such ERT or ROC), documentation of which will be made available to Administrator upon request;

(vii) if Account Holder is effecting cancellations on behalf of an Indirect Owner, the Indirect Owner has authorized Account Holder in writing to cancel ERT(s) or ROC(s) on their behalf (except to the extent that Account Holder may be deemed to hold or share with the applicable Indirect Owners any legal Title to or Beneficial Ownership Rights in such ERT or ROC), documentation of which will be made available to Administrator upon request;

(viii) Account Holder holds any ERT(s) or ROC(s) held on behalf of an Indirect Owner in a unique active sub account that is created and named for the specific Indirect Owner in the manner set forth in the ACR Registry Operating Procedures; and

(ix) upon request from the Administrator, the Account Holder will make available to Administrator additional details relevant to any Omnibus Holdings.

(d) Retail Aggregator Omnibus Retirement or Cancellation Exception. Account Holder with a Project Developer or Transaction account type who retails ERTs or ROCs to the general public, which may include organizations, utility customers and/or individual consumers, for the purpose of offsetting those customers' emissions via retirement or cancellation of ERTs or ROCs ("Retail Aggregator") may retire or cancel ERTs or ROCs on behalf of one or more third parties, provided that:

(i) Account Holder maintains an active, public account, resulting in the entity's name being available on the public report of Account Holders and visible from the transfer credits screen of the Registry;



(ii) Account Holder's Registry profile indicates it is approved for Omnibus Retirements;

(iii) Account Holder holds in its accounts any and all ERTs or ROCs that it markets to the general public, only holds in its accounts ERTs or ROCs for which it is the sole holder of all legal Title, and retires or cancels ERTs or ROCs on behalf of one or more Retail Purchasers ("Retail Aggregator Omnibus Retirements");

(iv) the third-party individual or organization with all Beneficial Ownership Rights in any ERT(s) or ROC(s) is a single entity without its own active Registry account (the "Retail Purchaser") has authorized Account Holder in writing to retire or cancel such ERT(s) or ROC(s) on their behalf, documentation of which will be made available to Administrator upon request;

(v) any such retirement or cancellation is effected only in the manner set forth in the ACR Registry Operating Procedures, inclusive of identifying the Retail Purchaser and the purpose of retirement (for the avoidance of doubt, for privacy reasons, individual persons do not need to be identified by name);

(vi) any Retail Aggregator Omnibus Retirement shall be effected solely on behalf of the applicable Retail Purchaser(s) who is itself the final beneficiary making the associated environmental claim;

(vii) at minimum, Account Holder preforms Retail Aggregator Omnibus Retirements on a quarterly basis; and

(viii) upon request from the Administrator, the Account Holder will make available to Administrator additional details relevant to any Retail Aggregator Omnibus Retirements.

(e) Custodial Account Exception. Account Holder with a Custodial account type who operates an external exchange, trading platform, auction platform, or other marketplace (collectively, referred to herein as the "External Marketplace") for the purpose of clearing or otherwise facilitating transactions of ERTs may hold, transfer, cancel and/or retire ERTs in its account(s) on behalf of one or more Indirect Owners who may have its own active Registry account, provided that:

(i) Account Holder maintains an active, public account, resulting in the entity's name being available on the public report of Account Holders and visible from the transfer credits screen of the Registry;

(ii) Account Holder's Registry profile indicates it is approved as an External Marketplace;

(iii) Account Holder is a Regulated Person and has notified Administrator of its status as a Regulated Person in writing upon applying to participate in the Registry; provided, however, that Administrator may, in its sole discretion, waive the requirements set forth in this paragraph (ii) with respect to Account Holder, with such waiver indicated per Section 6(e)(ii);

(iv) if Account Holder is a Retail Aggregator, Account Holder (1) shall hold in its accounts any and all ERTs that it offers for sale on the External Marketplace, (2) may do so on behalf of one or more Indirect Owners who are offering for sale ERTs on the External Marketplace provided that the Indirect Owner has authorized Account Holder in writing to hold and offer for sale ERT(s) on their behalf, documentation of which will be made available to Administrator upon request, and (3) shall perform Retail Aggregator Omnibus Retirements of ERTs consistent with the requirements set forth in Sections 6(d)(iv) through 6(d)(viii);

(v) if Account Holder's Registry profile indicates it is also approved for Digital Assets, Account Holder (1) shall hold in its accounts any and all ERTs that are represented in a digitized or tokenized form or otherwise placed on chain as (collectively referred to herein as Digital Assets) on the External Marketplace, (2) may do so on behalf of one or more Indirect Owners provided that the Indirect Owner has authorized Account Holder in writing to hold ERTs on their behalf for the purpose of representing them as Digital Assets on the External Marketplace, documentation of which will be made available to Administrator upon request, and (3) shall hold, transfer, cancel and/or retire ERTs consistent with the requirements set forth in the ACR Digital Assets Policy and Procedures; and

(vi) if Account Holder is neither a Retail Aggregator nor approved for Digital Assets as indicated on Account Holder's Registry profile, Account Holder may hold, transfer, cancel, and/or retire ERTs on behalf of one or more Indirect Owners provided that (1) Account Holder complies with the requirements set forth in Section 6(c)(iii), (2) any ERTs held are done so consistent with the requirements set forth in Sections 6(c)(iv), 6(c)(v), 6(c)(viii) and 6(c)(ix), (3) any ERTs transferred are done so consistent with the requirements set forth in Section 6(c)(vi), (4) any ERTs cancelled are done so consistent with the requirements set forth in Section 6(c)(vii), and (5) any ERTs retired are done so consistent with the requirements set forth in Sections 6(b)(ii) through 6(b)(v).

(f) Account Holders permitted to hold, transfer, cancel, or retire ERTs or ROCs on behalf of one or more Indirect Owners or Retail Purchasers under Sections 6(b), 6(c), 6(d), or 6(e) above maintain sufficient auditable records matching specific Indirect Owners or Retail Purchasers, as applicable, to the carbon credits and quantities transacted, cancelled, or retired and the dates those actions were effected on the Registry, which will be made available to Administrator upon request.

(g) Account Holder acknowledges that neither the Administrator nor its third party providers shall have any liability in connection with any misrepresentation by Account Holder or another Registry Participant relating to the ownership of any ERT or ROC in any account or sub account held by Account Holder, including without limitation the identity of the person(s) holding any legal Title thereto or Beneficial Ownership Rights therein.

**7. Representations and Warranties of Account Holder.** Throughout the term of these Terms of Use, including without limitation upon each issuance, transfer, retirement, or cancelation of an ERT or ROC by Account Holder, Account Holder represents and warrants to Administrator as follows:

(a) Account Holder is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its formation;

(b) Account Holder has all corporate and other authority and all regulatory and other consents, approvals, and authorizations necessary for it to legally

(i) enter into and perform its obligations under these Terms of Use and the Operative Documents; and

(ii) engage in all of its activity, including the generation, receipt, transfer, retirement, and/or cancelation of ERTs or ROCs on or relating to the Registry;

(c) The signatory of these Terms of Use has the authority to execute these Terms of Use on behalf of Account Holder, and these Terms of Use are binding on and enforceable against Account Holder in accordance with their terms;

(d) Account Holder will only use the Registry for generating, transferring, receiving, retiring, and/or canceling ERTs or ROCs that are attributable to the GHG projects included in the Registry and specifically acknowledges that it shall not use any other database for the same purpose at the same time as such GHG projects are registered in the Registry;

(e) Neither the Account Holder nor any Indirect Owner, if any, has listed or registered nor will it list or register any GHG emission reduction or removal simultaneously both in the Registry and in any other system that tracks the emissions, emission reductions or removals, emission offsets, or other environmental attributes related to GHG projects listed on the Registry nor will any transaction of the same emissions, emission reductions and/or removals, emission offsets, or other environmental attributes related to the GHG projects listed on the Registry be conducted outside of the Registry, other than in another ACR approved registry. This does not prohibit:

(i) Cancelation of ROCs, for the issuance of compliance offset credits by a regulatory or governing body to whom ACR serves as an Offset Project Registry;

(ii) Project Developer Account Holders, Custodial Account Holders, and Retail Aggregators from using their own system to publicly display, for the purpose of marketing and promotion, the verified GHG emission reductions or removals and associated GHG project attributes of ERTs and ROCs held in their Registry account; nor

(iii) any Account Holder from using their own system or others to publicly display, for the purpose of reporting environmental claims, the verified GHG emission reductions or removals and associated GHG project attributes of ERTs or ROCs retired in their Registry account;

(f) Other than an ACR-Linked Platform conducting the specific activities for which it is approved, Account Holder will not operate an External Marketplace on which ERTs or ROCs are transacted or managed outside of the Registry, will not place ERTs or ROCs on such an External Marketplace, and will not hold nor retire ERTs or ROCs on behalf of Indirect Owners, Retail Purchasers, or others to place on such an External Marketplace;

(g) If seeking to generate ERTs or ROCs, Account Holder commits not to list GHG projects or claim ERTs or ROCs for GHG emission reductions or removals which have already been or are

expected to be listed or registered on the Registry or with another compliance or independent GHG emission reduction and removal program, inclusive of instances where the GHG accounting boundaries overlap with the GHG accounting boundaries for carbon crediting of another mitigation activity and where the mitigation activities that generate GHG emission reductions or removals overlap with mandatory domestic mitigation schemes. For the avoidance of doubt, this does not preclude ROCs to be converted to compliance offset credits issued by a regulatory or governing body to whom ACR serves as an Offset Project Registry;

(h) Account Holder meets all of the requirements for participation in the Registry, as set forth in the Operative Documents;

(i) Neither Account Holder nor any Indirect Owner, if any, has – outside of the Registry – retired, sold, claimed, represented elsewhere, or used to satisfy emission reduction targets or obligations in any jurisdiction, nor will it – outside of the Registry – retire, sell, claim, represent elsewhere, or use to satisfy emission reduction targets or obligations in any jurisdiction, any of the GHG emission reductions or removals associated with Account Holder’s ERTs or ROCs without reporting such disposition within the Registry;

(j) Collectively, Account Holder, Indirect Owners, and Retail Purchasers, if any, have legal Title and all Beneficial Ownership Rights with respect to the ERTs or ROCs issued or to be issued to Account Holder and/or held in Account Holder’s account or sub accounts and, if Account Holder is seeking to generate ERTs or ROCs for GHG emission reductions or removals, no other person or entity can claim the right to the ERTs or ROCs or to the GHG emission reductions or removals for which Account Holder is seeking carbon credits;

(k) If applicable, Account Holder has been authorized to act on behalf of the Indirect Owners and Retail Purchasers having legal Title to and/or a Beneficial Ownership Right in the ERTs or ROCs held in Account Holder’s accounts or sub accounts;

(l) If seeking to generate ERTs or ROCs, Account Holder has acted in compliance with any relevant regulatory system or other requirements underlying the GHG emission reductions or removals for which Account Holder is seeking carbon credits, inclusive of abiding by national and local laws, objectives, programs and regulations and where relevant, international conventions and agreements;

(m) If seeking to generate ERTs or ROCs and Account Holder is not the Project Proponent, in the event of a reversal requiring compensation, Account Holder shall facilitate the replacement of the Verified Lost Credit Amount in accordance with the Reversal Risk Mitigation Agreement and Buffer Pool Terms of Use and deliver carbon credits to compensate for the Verified Lost Credit Amount;

(n) If seeking to designate host country authorized post 2020 vintage carbon credits as eligible for the Carbon Offsetting and Reduction Scheme for International Aviation (CORSA), Project Proponent must present, in a form acceptable to Administrator at Administrator’s sole discretion, a mechanism to compensate for double claims of GHG emission reduction and removal units between

aeroplane operators for the CORSIA and host countries towards nationally determined contribution (NDC) achievement;

(i) Compensation is required in the event that the adjustment has not been made or credible evidence cannot be obtained by Administrator within a year after the adjustment was due to be reported to the United Nations Framework Convention on Climate Change (UNFCCC) by the Host Country. Project Proponent shall compensate for the double claimed volume following requirements in the ACR Standard, including requirements of the elected compensation mechanism and, if applicable, in accordance with the CORSIA Double Claiming Risk Mitigation Agreement;

(o) All data and other information being provided to ACR, Administrator, and the Registry by Account Holder and/or its Representatives are owned legally and beneficially by Account Holder, are derived from public third party sources or, with respect to ERTs or ROCs held, transferred, or retired by Account Holder on behalf of an Indirect Owner or Retail Purchaser, by a person or entity on whose behalf Account Holder has been authorized to act, and all such data and other information are true, correct, and complete in all material respects to the best of its knowledge, information, and belief;

(p) Account Holder commits not to tokenize, digitize, or otherwise place or transact ACR issued ERTs or ROCs on chain unless expressly authorized by Administrator in writing under terms acceptable to ACR. For clarity, ACR will not permission the tokenization of retired ERTs or ROCs;

(q) Account Holder will in no way undermine the integrity of ERTs or ROCs, including applying any discount to the standard unit of measurement (one metric ton of CO<sub>2</sub>e);

(r) Account Holder and each of its officers, directors, employees, consultants, third-party contractors and agents using the Registry or its associated information or technology (i) is not a Restricted Person, (ii) is not knowingly a person or entity with whom a citizen of the United States, UK or any EU Member State is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of Applicable Export/Sanctions Laws and (iii) shall not transfer, export or make the Registry or its associated information or technology available to any Sanctioned Territory. As used herein, a “Restricted Person” means an entity or individual (A) ordinarily resident in or located in, incorporated in, headquartered in, or organized under the laws of a Sanctioned Territory, (B) targeted by trade or financial sanctions or export control restrictions under applicable law, or (C) directly or indirectly owned or controlled by or acting for or on behalf of anyone covered by the foregoing in this sentence. As used herein, “Sanctioned Territory” means a country or territory subject to comprehensive United States sanctions. As used herein, “Applicable Export/Sanctions Laws” means applicable sanctions, economic sanctions laws, export control and other trade control laws, regulations, edicts, orders, or resolutions administered or enforced by the United States, UK, European Union, any EU Member State, or any other country from which Account Holder accesses the services;

(s) Account Holder shall notify the Administrator in writing immediately if it, its affiliates or subsidiaries, or its or their officers, directors, employees, consultants, third party contractors or

agents using the Registry, becomes a Restricted Person or becomes directly or indirectly owned or controlled by one or more Restricted Persons, or becomes knowingly a person or entity with whom a citizen of the United States, UK or any EU Member State is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of Applicable Export/Sanctions Laws;

(t) Account Holder will comply with all applicable export laws, including, without limitation, those applicable to use of encryption technology, and Account Holder assumes sole responsibility for obtaining any necessary licenses to export, re-export, or transfer (in-country) as may be required of such party;

(u) Account Holder has not taken any action, directly or indirectly, that would result in a violation of the Foreign Corrupt Practices Act of 1977, as amended, including, without limitation, the rules and regulations thereunder (FCPA), the U.K. Bribery Act of 2010 (Bribery Act), or any other applicable anti-bribery or anticorruption laws, rules, or regulations.

**8. Representations and Warranties of Administrator.** Throughout the term of these Terms of Use, Administrator represents and warrants to Account Holder as follows:

- (a) to Administrator's knowledge,
- (i) the Registry, Operative Documents, and these Terms of Use comply in all material respects with any Applicable Laws, regulations, and order to which it may be subject;
  - (ii) ACR and/or Winrock International possess any applicable licenses, authorizations, permits, consents and approvals of any governmental entity or other governmental authority that may be required to be possessed by ACR and/or Winrock International in connection with the operation of the program and Registry;
  - (iii) To Administrator's knowledge, use of the Registry by Account Holder in accordance with these Terms of Use does not and will not infringe the intellectual property rights of any third party in the United States; and
- (b) Administrator will act as a reasonable and prudent operator in performing its obligations under these Terms of Use.

## 9. Fees.

(a) Account Holder agrees to pay all fees that Administrator may charge for use of the Registry from time to time (collectively referred to herein as the “Fees”). The Fees are included in the Registry Fee Schedule as set forth on the ACR Website by Administrator and amended from time-to-time (the “ACR Fee Schedule”). Account Holder acknowledges that it has received and reviewed the ACR Fee Schedule. Administrator may, upon forty five (45) days notice to Account Holder and in its sole discretion, modify the ACR Fee Schedule to include new fees as well as increase or decrease any or all of the Fees at any time.

(b) In no event shall any portion of the Fees be prorated or refunded to Account Holder upon termination of the Terms of Use or of any account or sub account.

(c) Account Holder understands and agrees that Fees are used by Administrator to cover program operations and administrative costs, including but not limited to staff salaries and benefits; consultants; legal expenses; registry system maintenance, updates, data back up and storage; office and travel expenses; equipment; insurance; website hosting; training and professional development; lobbyists; communications and marketing expenses; and event expenses such as venue rental, food and beverages, including alcohol.

## 10. Payments and Taxes.

(a) Invoices for Fees will be posted on a secure page on the Registry Site and/or emailed to the billing contact for the account.

(b) Account Holder shall pay any Fees charged hereunder by check or wire transfer of immediately available funds, in United States dollars without offset or reduction of any kind, to the account identified by Administrator by the payment due date on the invoice or, if no payment due date is indicated, no later than thirty (30) days from the date of the invoice (the “Due Date”).

(c) ERTs and ROCs will not be activated or canceled until applicable fees have been paid.

(d) The Fees shall be non refundable.

(e) Account Holders and/or other legal owners of ROCs from compliance offset projects, including Offset Project Operators (OPOs) and/or Authorized Project Designees (APDs) agree to assume the legal obligation to pay the carbon credit activation and cancelation fees upon ACR’s issuance of the ROCs.

(i) The payment is due no later than one hundred and twenty (120) days after ROC issuance unless otherwise agreed by the parties in writing.

(ii) Once a compliance offset project is submitted for listing, the Account Holder and/or other legal owners of future ROCs (including OPOs and/or APDs) agree to continue the project review, listing, verification, and ROC issuance on the Registry. If the project is transferred to another registry at any time between the initial submittal of listing information and issuance of ROCs, the

Account Holder and other legal owners of future ROCs will be required to pay a Project Transfer Fee as detailed in the ACR Fee Schedule.

(f) Account Holder will pay all wire transfer fees and all sales, use, value added taxes, and other consumption taxes, personal property taxes and other taxes and charges imposed by any governmental entity (other than those based on Administrator's net income) (collectively referred to herein as "Taxes") related to the use of the Registry unless Account Holder furnishes satisfactory proof of exemption. Taxes, if any, are not included in the Fees and, to the extent that Administrator is required to pay those Taxes, those Taxes will be added to Account Holder's invoices. If not so added, such Taxes are the exclusive responsibility of Account Holder.

**11. Late Payments.** If Account Holder fails to pay any Fees, Taxes or other amounts or charges which Account Holder is obligated to pay under the Operative Documents or these Terms of Use by the Due Date, then Account Holder shall be responsible to pay interest thereon accruing at a rate of one and one half percent (1½ %) per month, or the highest rate permitted by Applicable Law, whichever is lower, together with any additional costs or expenses incurred by Administrator in connection with the collection of such overdue amounts. Acceptance of any interest, cost, or expenses shall not constitute a waiver by Administrator of Account Holder's default with respect to such late payment, nor prevent Administrator from exercising any other rights or remedies available to Administrator under the Operative Documents, these Terms of Use, or any Applicable Law.

**12. Default; Remedies.**

(a) Default. The occurrence of any of the following shall be considered a "Default":

(i) Account Holder fails to pay any of the Fees, Taxes, or other charges due in accordance with the procedures set forth in Sections 9 and 10 above within five (5) days of their Due Date.

(ii) Account Holder or its Representatives alter, tamper with, damage, or destroy (1) the Registry or any portion thereof, or (2) the data of other Registry Participants.

(iii) Account Holder uses the Registry in any manner that, directly or indirectly, violates any Applicable Law.

(iv) All or substantially all of Account Holder's assets are attached or levied under execution (and Account Holder does not discharge the same within sixty (60) days thereafter); a petition in bankruptcy, insolvency, for reorganization or a similar arrangement is filed by or against Account Holder (and Account Holder fails to secure a stay or discharge thereof within sixty (60) days thereafter); Account Holder is insolvent and unable to pay its debts as they become due; Account Holder makes a general assignment for the benefit of creditors; Account Holder takes the benefit of any insolvency action or law; the appointment of a receiver or trustee in bankruptcy for Account Holder 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 Account Holder if Account Holder is an entity.



(v) Account Holder falsifies or misrepresents any data or other information input into the Registry.

(vi) Account Holder makes any false or inaccurate representations or warranties as related to Section 7 of these Terms of Use.

(vii) Account Holder violates its confidentiality obligations set forth in Section 15.

(viii) Account Holder receives written notice of a violation of the performance of any particular material term or condition of the Operative Documents or these Terms of Use three (3) or more times during any twelve (12) month period, regardless of whether such violations are ultimately cured, which conduct shall represent a separate Default.

(ix) Account Holder violates any other provisions of these Terms of Use or the Operative Documents, which default is not cured to the satisfaction of Administrator in its sole discretion within five (5) days after notice is given to Account Holder specifying such default.

(b) Remedies. Upon the occurrence of any Default, Administrator shall have the following rights and remedies, in addition to those stated elsewhere in the Operative Documents and these Terms of Use and those allowed by Applicable Law or in equity, any one or more of which may be exercised without further notice to Account Holder:

(i) Account Holder acknowledges that Administrator may notify purchasers of any erroneous ERTs, suspend Account Holder's or any Users' account access, levy an administrative fine, or terminate Account Holder's account.

(ii) Upon Administrator's termination of an Account Holder's account pursuant to this paragraph, Account Holder shall be obligated to pay to Administrator all monies due to it, which in the case of a termination as a result of a Default shall include attorneys' fees incurred to enforce Administrator's rights under the Operative Documents and these Terms of Use, and which in any event shall include any interest and costs and expenses due hereunder.

(iii) Account Holder acknowledges that money damages would not adequately compensate Administrator in the event of a breach by Account Holder of its obligations hereunder and that injunctive relief may be essential for Administrator to adequately protect itself hereunder. Accordingly, Account Holder agrees that, in addition to any other remedies available to Administrator at law or in equity, including but not limited to any monetary damages, Administrator shall be entitled to seek injunctive relief in the event Account Holder is in breach of any covenant or agreement contained herein.

(iv) In the event that Account Holder challenges Administrator's termination or Account Holder's account, Account Holder acknowledges that it is not entitled to any monetary damages as a result of Administrator's action absent a showing of intentional harm.

(c) Nonwaiver of Defaults. The failure or delay of Administrator in exercising any of its rights or remedies or other provisions of the Operative Documents or these Terms of Use shall not

constitute a waiver thereof or affect Administrator's right thereafter to exercise or enforce such rights or remedies or other provision. No waiver of any Default shall be deemed to be a waiver of any other Default. Administrator's receipt of less than the full amount of Fees, Taxes, Reinstatement Fees, or other amounts due shall not be construed to be other than a payment on account then due, nor shall any statement on Account Holder's check or any letter accompanying Account Holder's check be deemed an accord and satisfaction.

### **13. Term and Termination.**

(a) **Term.** These Terms of Use become operative on the date on which Account Holder indicates on the Registry Site or signed document that Account Holder agrees with and accepts the Terms of Use and shall continue in effect until Administrator or Account Holder terminates access to the Registry pursuant to subsections (b), (c) or (d) below.

#### **(b) Termination by Administrator.**

(i) Prior to approving your registration to become an Account Holder, Administrator may in its sole discretion reject your registration.

(ii) Administrator may terminate Account Holder's access to the Registry immediately in the event of any Default as set forth in Sections 12(a)(i) through 12(a)(viii).

(iii) Administrator may terminate Account Holder's access to the Registry upon giving five (5) days notice to Account Holder in the event of any other Default as set forth in Section 12(a)(ix).

(iv) Administrator may terminate Account Holder's access to the Registry, for any reason, upon giving thirty (30) days notice to Account Holder, during which time the Account Holder may transfer any non-transacted ERTs or ROCs to another Account Holder and may request transfer of any listed or registered GHG projects to another Account Holder.

(v) The Account Holder will not have access or rights to any ERTs or ROCs remaining in the account after it has been terminated.

(vi) Administrator may, at its sole discretion, either retire or transfer to the ACR Buffer Pool Account or ACR Reserve Account any Active or Inactive ERTs and ROCs held by an Account Holder for which access to the Registry has been terminated, upon giving thirty (30) days notice to the Account Manager listed in Registry.

#### **(c) Termination by Account Holder.**

(i) Account Holder may terminate use of the Registry, for any reason, by providing at least sixty (60) days written notice to Administrator, during which time the Account Holder may transfer any non-transacted ERTs or ROCs to another Account Holder and may request transfer of any listed or registered GHG projects to another Account Holder.

(ii) The Account Holder will not have access or rights to any ERTs or ROCs remaining in the account after it has been terminated.

(iii) Administrator may, at its sole discretion, either retire or transfer to the ACR Buffer Pool Account or ACR Reserve Account any Active or Inactive ERTs and ROCs held by an Account Holder after termination.

(iv) Account Holder's obligation to pay any and all Fees due under the Operative Documents and these Terms of Use at the time of termination of use shall survive such termination of use.

(d) **Termination Required by Law.** Administrator shall terminate access to, or Account Holder shall cease use of, the Registry if required to do so by any Applicable Law, or by any order or other decision of a court of law, arbitral panel, or governmental agency. At least sixty (60) days notice of said termination of access or cessation of use of the Registry shall be given by the Party terminating the access to, or ceasing the use of, the Registry under this subsection, unless a shorter notice period is required by Applicable Law or the relevant order or decision.

(e) **Effect of Termination.** The terms of Sections 4 (Authorized User; Personal Information), 5 (Ownership and Use of Data and the Registry), 9 (Fees), 10 (Payments and Taxes), 12 (Default; Remedies), 13 (Term and Termination), 15 (Confidentiality), 17 (Limitation of Liability), 20 (Indemnification), 21 through 31, and any other provisions meant to survive termination or expiration of these Terms of Use, shall survive termination of the Terms of Use.

(f) **Reinstatement.**

(i) Upon the request of Account Holder, Administrator, in its sole discretion, may reinstate Account Holder's access to the Registry after termination for Account Holder's Default, upon Administrator's determination that Account Holder has resolved such Default and upon receipt of Account Holder's full payment of all Fees and Taxes due prior to the termination. Account Holder agrees to pay a reinstatement fee equal to the Fees which would have been due during the period in which Account Holder's account(s) were terminated ("Reinstatement Fee"). The Reinstatement Fee shall be due prior to reinstatement of Account Holder's access to the Registry.

(ii) Administrator shall reinstate an Account Holder's access to the Registry after termination for Account Holder's Default if directed to do so as a result of the outcome of a dispute resolution proceeding under these Terms of Use. Whether payment of a Reinstatement Fee is required in such an instance shall be determined as part of such dispute resolution proceeding.

#### **14. Intellectual Property.**

(a) The ACR name and brand, 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. Except as expressly provided herein and in the Operative Documents, none of Administrator or any of

its affiliates grants any express or implied right or license of any kind to Account Holder under any patents, copyrights, trademarks, or trade secret information with respect to such intellectual property and/or information and/or the Registry. Except as expressly provided by copyright law, the Operative Documents, or these Terms of Use, Account Holder may not use, copy, store, distribute, modify, adapt, reproduce, publish, sell, resell, rent, sublease, transfer, license, sublicense, transmit, display, participate in the transfer or sale of, or create derivative works of, any of such intellectual property or information or the Registry, either in whole or in part, other than:

(i) reports or other data created for use by or otherwise disseminated to Account Holder and/or public, in accordance with the ACR Website Terms of Use;

(ii) as may be required or compelled by Applicable Law;

(iii) information that it has provided to the Registry, whether or not it is Confidential Information; or

(iv) as Administrator may agree in writing in its sole discretion.

(b) Use of the ACR logo is not permitted unless expressly authorized by Administrator in writing. Any authorized use of the ACR logo and Administrator's trademarks shall be precisely as described in the Operative Documents, and Account Holder shall not alter such logo or trademarks in any respect, including without limitation changing the color scheme thereof.

(c) Account Holder acknowledges that Account Holder does not acquire any ownership rights by downloading copyrighted material.

## **15. Confidentiality.**

(a) The Registry, including the selection, arrangement, and compilation of data, may be comprised of confidential, market sensitive, and trade secret information of the Account Holder and other Registry Participants. Administrator agrees (i) to use and maintain information provided by Account Holder in accordance with the ACR Privacy Policy and ACR Standard or, for compliance offset projects, the applicable regulation, rule, and/or publicly available guidance of the relevant regulatory or governing body of the compliance offset program and (ii) not to knowingly use or disclose Confidential Information (as defined below) provided by Account Holder except as authorized by Account Holder or these Terms of Use. Account Holder agrees not to use or disclose the information contained in the Registry other than that contained in Registry public reports, including any other Registry Participant's Confidential Information, except as authorized by the Operative Documents and these Terms of Use. For the avoidance of doubt, Account Holder may disclose information pertaining to their own account for internal business purposes such as to an external auditor or with an affiliated entity with a direct ownership connection to the Account Holder (e.g., a parent or subsidiary company of the Account Holder or an entity that shares a common ultimate parent company with the Account Holder). The obligations of confidentiality in these Terms of Use shall survive its termination without limitation in duration for so long as information continues to meet the definition of Confidential Information.

(b) As used in these Terms of Use, the following information is deemed “Confidential Information”:

(i) For ACR GHG projects: Commercially Sensitive Information, when designated by the Account Holder as Commercially Sensitive Information in accordance with the ACR Standard;

(ii) For compliance offset projects: Confidential, market sensitive or similarly defined information as designated in the regulation, rule, and/or publicly available guidance of the regulatory or governing body of the relevant compliance offset program.

(iii) Total number of ERTs or ROCs in an Account Holder’s account and sub accounts (other than sub accounts made public);

(iv) The amount and timing of specific ERT or ROC transfers from or to Account Holder accounts and transfers between Account Holder’s sub accounts; and

(v) Those portions of communications between Account Holder and Administrator regarding the Registry that contain any of the aforementioned information that would be treated as Confidential Information.

*Provided, however,* that Confidential Information does not include information which can be established by written documentation: (i) to have been publicly known prior to disclosure of such information by the disclosing Party (the “Disclosing Party”) to the receiving Party (the “Receiving Party”); (ii) to have become publicly known, without fault on the part of the Receiving Party, subsequent to disclosure of such information by the Disclosing Party to the Receiving Party; (iii) to have been received by the Receiving Party at any time from a source, other than the Disclosing Party, rightfully having possession of and the right to publicly disclose such information; (iv) to have been independently developed by employees or agents of the Receiving Party without access to or use of such information disclosed by the Disclosing Party to the Receiving Party; (v) to be common technical information or know how readily available in literature; (vi) to be required to be disclosed by Applicable Law, including but not limited to information that must be provided to any governmental entity to confirm compliance with any statute or regulation, administrative proceeding, administrative or court order or discovery, provided that both Parties take such reasonable actions as necessary to ensure that such information is disclosed in as limited a manner possible; (vii) to be already within the knowledge of the Receiving Party at the time of disclosure, which information is not subject to a confidentiality agreement; or (viii) to be information Administrator is otherwise permitted to disclose under the Operative Documents.

(c) Confidential Information is the sole and exclusive property of the Registry Participant who provided the information to the Registry or on whose behalf the information was provided and shall not be used by Account Holder for any purpose other than the purposes set forth in the Operative Documents and these Terms of Use.

(d) Confidential Information may be aggregated with other information in the Registry and included in public reports as described more fully in the ACR Registry Operating Procedures, so

long as it is sufficiently aggregated such that a third party reviewer could not determine the portion of such aggregated information that is Confidential Information of a particular Account Holder.

(e) If Account Holder obtains access to data in the Registry that: (i) is not data provided or owned by Account Holder; (ii) is not part of a publicly available Registry report; and (iii) Account Holder is not otherwise authorized to use, then, regardless of whether such data is otherwise considered Confidential Information under these Terms of Use, Account Holder shall:

- (i) immediately notify Administrator that Account Holder has obtained such access; and
- (ii) not disclose, disseminate, copy, or use any such information.

(f) Except as specifically set forth in this Section 15 and Section 4(d), Administrator shall have no obligation to protect or maintain the confidentiality of any information provided by Account Holder to Administrator or to the Registry, and Account Holder expressly consents to the disclosure of any such information that is not Confidential Information hereunder.

## **16. Disclaimer of Warranty.**

(a) The data contained in the Registry has been gathered by Administrator from sources believed by it to be reliable, including but not limited to Verifiers, Project Proponents, and Account Holder and Account Holder's Representatives. However, Administrator does not warrant that the information in the Registry is correct, complete, current, or accurate, nor does Administrator warrant that the Software will be error free or bug free. Administrator has no obligation to audit, validate, or otherwise verify any information contained in the Registry.

(b) Account Holder acknowledges and accepts terms and conditions as described in the ACR Website Terms of Use.

(c) THE REGISTRY IS PROVIDED "AS IS" AND "AS AVAILABLE" AND ADMINISTRATOR MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THESE TERMS OF USE, THE OPERATIVE DOCUMENTS OR THE ADEQUACY OR PERFORMANCE OF THE REGISTRY, AND ADMINISTRATOR HEREBY DISCLAIMS TO THE EXTENT PERMITTED BY LAW ANY SUCH WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, NON INFRINGEMENT, TITLE OR FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, ACCURACY, OR ANY IMPLIED WARRANTIES ARISING FROM ANY COURSE OF DEALING, USAGE OR TRADE PRACTICE. ADMINISTRATOR DOES NOT WARRANT THAT THE SERVICES PROVIDED HEREUNDER SHALL BE UNINTERRUPTED, ERROR FREE, OR COMPLETELY SECURE, OR THAT THE PROVISION OF SUCH SERVICES SHALL ALWAYS BE EXECUTED WITHOUT ERRORS OR OMISSIONS.

(d) Administrator shall not be responsible for the acts or omissions of any Account Holder or any other party who inputs data into the Registry or from whom data is obtained for inclusion on the Registry.

(e) Administrator is not responsible for how information or data contained in the Registry nor on ACR Website or Registry Site is used by Account Holder or any third party. Administrator has not reviewed, assessed, investigated, verified, edited, or amended any adaptation, reproduction, or creation of derivative works based on the data and information contained in the Registry or made available on the ACR Website or Registry Site which is created and/or made available by any third party, nor does Administrator endorse or recommend the use of such derivative works.

(f) The data and information contained in the Registry or made available on the ACR Website or Registry Site is not intended to constitute advice nor is it to be used as a substitute for specific advice from a professional.

(g) Account Holder is solely responsible for the protection, security, and management of usage and security of its computer network, including taking all necessary precautions to ensure that any content you may obtain is free of viruses or any other harmful component. Administrator shall not compensate Account Holder for damages incurred due to violations of the security of Account Holder's computer network, nor shall Account Holder make deductions or set offs of any kind for Fees resulting therefrom.

**17. Limitation of Liability.** ACCOUNT HOLDER'S USE OF THE REGISTRY AND THE REGISTRY SITE IS AT YOUR OWN RISK. ACCOUNT HOLDER ASSUMES FULL RESPONSIBILITY AND RISK OF LOSS RESULTING FROM ITS USE OF THE REGISTRY AND THE REGISTRY SITE. ADMINISTRATOR'S AND ANY THIRD-PARTY PROVIDER'S SOLE LIABILITY FOR THE REGISTRY, SERVICE DISRUPTION, PERFORMANCE OR NONPERFORMANCE BY ADMINISTRATOR OR IN ANY WAY RELATED TO THESE TERMS OF USE, REGARDLESS OF WHETHER THE CLAIM FOR DAMAGES IS BASED IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, IS LIMITED, TO THE EXTENT PERMITTED BY LAW, TO AN AGGREGATE AMOUNT EQUAL TO THE LESSER OF (X) THE FEES PAID BY ACCOUNT HOLDER HEREUNDER DURING THE CALENDAR YEAR IMMEDIATELY PRECEDING THE DATE ANY SUCH CLAIM IS OR CLAIMS ARE MADE BY ACCOUNT HOLDER AND (Y) USD 50,000.00 (FIFTY THOUSAND DOLLARS). ADMINISTRATOR AND ANY THIRD-PARTY PROVIDER SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR OTHER INDIRECT DAMAGES REGARDLESS OF CAUSE, NOR FOR ECONOMIC LOSS, LOSS OF USE, LOSS OF DATA, LOSS OF BUSINESS, PERSONAL INJURIES OR PROPERTY DAMAGES SUSTAINED BY ACCOUNT HOLDER OR ANY THIRD PARTIES, EVEN IF ADMINISTRATOR HAS BEEN ADVISED BY ACCOUNT HOLDER OR ANY THIRD PARTY OF THE POSSIBILITY OF SUCH DAMAGES. ADMINISTRATOR DISCLAIMS ANY LIABILITY FOR ERRORS, OMISSIONS OR OTHER INACCURACIES IN ANY PART OF THE REGISTRY, OR THE REPORTS, ERTs OR ROCs OR OTHER INFORMATION COMPILED OR PRODUCED BY AND FROM OR INPUT INTO THE REGISTRY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, ACCOUNT HOLDER HEREBY RELEASES AND DISCHARGES ADMINISTRATOR OR ANY THIRD-PARTY PROVIDER, OR ANY OF THEIR RESPECTIVE AFFILIATES, SHAREHOLDERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, LICENSORS, SUCCESSORS AND ASSIGNS, CONTRACTORS, SERVICE PROVIDERS AND VENDORS FROM ANY AND ALL LIABILITY WITH RESPECT TO ANY DAMAGES OR INJURIES INCURRED BY ACCOUNT HOLDER AS RELATES TO THE REGISTRY.

**18. Security.**

(a) Account Holder agrees to assume sole responsibility for the security of any logins, passwords, and Registry IDs issued to Users for accessing the Registry.

(b) Account Holder agrees to immediately notify Administrator of any suspected unauthorized use of User login(s), password(s), Registry ID(s), or account or any other suspected breach of security.

(c) In the event that Administrator or its third-party Registry Operator learns of a security breach, the Registry Operator has the ability and right to take the Registry offline. Administrator or its third-party Registry Operator may endeavor, but is not required, to notify Account Holder in advance of taking such action. To prevent irreparable harm, the Registry is subject to regular backups, which may be used in conjunction with activity and event logs as a remedy to restore the Registry to an earlier state prior to a service disruption or breach.

**19. Maintenance.**

(a) Account Holder understands that they must notify Administrator in writing if they want to withdraw a listed ACR GHG project or cancel a registered ACR GHG project.

(b) Account Holder understands that any ACR GHG project listed but not validated or registered by the deadlines prescribed in the ACR Standard shall be withdrawn in the Registry, unless a grace period is requested by Account Holder and approved in writing by Administrator. Such action does not preclude Account Holder from re-listing the GHG project with the Registry at a later date but, until such time as the GHG project is re-listed, the GHG project will no longer be viewable in the Registry.

(c) Account Holder understands that, if Administrator has cause to reject a listed ACR GHG project or cancel a registered ACR GHG project, no ERTs or ROCs will be issued after such action is taken.

**20. Indemnification.** Account Holder agrees, to the extent permitted by law, to defend, indemnify, and hold harmless each of Administrator and its subsidiaries and affiliates and each of their respective owners, directors, trustees, partners, members, officers, employees, representatives, and agents (each an “Indemnified Party”) from and against any violations by Account Holder or its Users of any Applicable Law and against any and all claims (including third party claims), causes of action, whether in contract, tort, or any other legal theory (including strict liability), demands, damages, costs, liabilities, losses, and expenses (including reasonable attorneys’ fees and court costs) of any nature whatsoever (“Losses”) arising out of, resulting from, attributable to, or related to the use of the Registry or Registry Data by Account Holder or its Users, or Account Holder’s or its Users’ violation of any of the Operative Documents or these Terms of Use, including but not limited to any Losses arising out of or related to: (a) any inaccuracy, error, delay in, or omission of (i) any data, information, or service, or (ii) the transmission or delivery of any data, information, or service; (b) any interruption of any such data, information, or service (whether or not caused by such Indemnified



Party); or (c) any financial, business, commercial, or other judgment, decision, act, climate disclosure or claim, or omission based upon or related to the information or the Registry. Notwithstanding the foregoing, Account Holder 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 a court of law or arbitral panel has determined amounted to gross negligence or willful misconduct.

**21. No Assignment, Transfer or Encumbrance by Account Holder.** Neither any Operative Document nor these Terms of Use nor any rights hereunder or thereunder may be assigned, sublicensed, encumbered, pledged, mortgaged, or otherwise transferred by Account Holder, in whole or in part, whether voluntary or by operation of law, without the express prior written consent of Administrator, which consent shall not be unreasonably withheld, conditioned, or delayed.

**22. Governing Law.** These Terms of Use shall be governed in all respects by the laws of the State of Arkansas, USA, without giving effect to any choice or conflict of law provision or rule. Account Holder understands and agrees that all transactions take place in Pulaski County, Arkansas and agree that the federal and state courts located in Pulaski County, Arkansas have exclusive jurisdiction over any disputes with ACR arising from or related to these Terms of Use. Account Holder irrevocably consents and submits to the exclusive personal jurisdiction of that court, and Account Holder irrevocably waives any jurisdictional, venue, or inconvenient forum objections to such court.

**23. Relationship of Parties.** Each Party is an independent contractor under these Terms of Use. No Party has the authority to execute documents that purport to bind the others, and nothing in these Terms of Use will be construed to constitute a joint venture, fiduciary relationship, partnership, or other joint undertaking.

**24. No Third Party Beneficiaries.** These Terms of Use and the Operative Documents are for the sole and exclusive benefit of Account Holder and Administrator, and each of their successors and permitted assigns, and except as set forth in Sections 17 and 20 or otherwise specifically provided herein, no third party, including without limitation any third party having Beneficial Ownership Rights in an ERT or ROC, will have any rights under these Terms of Use or the other Operative Documents whatsoever.

**25. Force Majeure.** No Party shall be deemed to have breached any provision of these Terms of Use as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, terrorism, energy crises, fires, floods, strikes or other labor disturbances, riots, embargoes, transportation contingencies, fuel shortages, interruptions in third party telecommunications or Internet equipment or service, other catastrophes, or any other occurrences which are beyond the claiming Party's reasonable control and which, by the exercise of due diligence, the claiming Party is unable to overcome or avoid or cause to be avoided (collectively referred to herein as "Force Majeure"); provided, however, that no such occurrences shall excuse Account Holder's obligation to

pay amounts due hereunder by the applicable Due Date. Administrator shall seek to remedy the Force Majeure using commercially reasonable efforts.

**26. Administration.** ACR will manage its obligations under these Terms of Use, including the administration of the Registry. In the event of that ACR is no longer operational or able to manage its obligations under these Terms of Use or in compliance with the Operative Documents, they will be managed by ACR's parent organization, Winrock International, or a comparable, qualified organization of Winrock International's election.

**27. Severability.** If any part of these Terms of Use is held to be unenforceable or illegal by a court, arbitral panel, or governmental administrative agency, such holding shall not affect the validity of the other parts of the Terms of Use, which shall at all times remain in full force and effect.

**28. Waiver.** The waiver of a breach or the failure to require at any time performance of any provision of these Terms of Use will not operate or be interpreted as a waiver of any other or subsequent breach nor in any way affect the ability of any Party to enforce each and every such provision thereafter. The express waiver by any Party of any provision, condition, or requirement of these Terms of Use shall not constitute a waiver of any future obligation to comply with such provision, condition, or requirement.

**29. Notices.** All notices permitted or required under these Terms of Use shall be in writing and shall be delivered in person, by email, or first class, registered or certified mail, postage prepaid, or by overnight courier service to the following addresses or such other address as either Party may specify in writing:

If to Administrator:

Winrock International  
Attn: ACR Administrator  
325 W Capitol, Ste 350  
Little Rock, AR 72201  
United States of America

Email: [acr@winrock.org](mailto:acr@winrock.org)

If to Account Holder:

To the email address(es) for Account Manager, billing contact, project contact and/or other Users, as applicable and relevant, provided in the Registry at the time of account registration and updated by Account Manager, as needed.

Service shall be effective on the earlier of actual receipt or the second business day after the day of mailing via first class mail. For service of notice via email, it shall be deemed received when acknowledgement of its receipt has been given by the Party due to receive the notice, inclusive of an automated delivery receipt.

**30. Dispute Resolution.**

(a) The Parties shall first attempt in good faith to settle any controversy or claim arising out of or relating to these Terms of Use, or the breach thereof, or any other claim or controversy between the Parties arising out of the Registry (any such claim, a “Dispute”), by mediation administered by the American Arbitration Association (AAA) under its Commercial Mediation Procedures then in effect. At least thirty (30) days prior to initiating such mediation, the Party seeking to mediate (“Demanding Party”) shall give the other Party written notice describing the claim and the amount as to which it intends to initiate the action, as well as providing all supporting documentation available to the Demanding Party.

(b) Any Dispute that has not been resolved by mediation as provided herein within forty five (45) days after initiation of the mediation procedure shall be finally resolved by arbitration administered by the AAA under its Commercial Arbitration Rules and Supplementary Procedures for Online Arbitration then in effect. The arbitrator(s) will have no authority to award punitive damages nor any other damages not measured by a prevailing Party’s actual damages, and may not, in any event, make any ruling, finding, or award that does not conform to the terms and conditions of these Terms of Use. Neither any Party nor the arbitrator(s) may disclose the existence or results of any arbitration hereunder without the prior written consent of all Parties.

(c) Each Party shall be responsible for the payment of all of its costs associated with the resolution of said dispute whether in arbitration or before a court of law, including but not limited to any filing fees, arbitrator fees, its attorneys’ fees, and other costs incurred in such proceeding, provided that if a dispute is initiated in bad faith, as determined by the arbitrator, the Party initiating the dispute shall be responsible for all of the other Party’s defense costs, and provided further that Administrator shall be entitled to payment of its costs and expenses, including without limitation attorneys’ fees to the extent set forth in Sections 12(b)(ii) and 20.

(d) The Parties agree that neither may bring a claim nor assert a cause of action against the other, in any forum or manner, more than one (1) year after the cause of action accrued, except where the Party could not have reasonably discovered the wrong giving rise to the claim within one (1) year.

**31. Entire Agreement.** The Operative Documents and these Terms of Use, including any and all exhibits attached thereto and hereto, represent the entire agreement of the Parties with respect to the subject matter thereof and hereof and supersede any conflicting terms in any other prior or contemporaneous oral or written agreements and any and all other communication.

# APPENDIX A: Defined Terms

“Account Holder” has the meaning set forth in Section 1.

“Account Manager” means the individual within the Account Holder’s organization who is authorized to denote the Account Holder’s agreement to these Terms of Use, create additional Registry logins and assign access privileges for Users, and have full access to account activity.

“ACR” has the meaning set forth in the preamble.

“ACR Digital Assets Policy and Procedures” means the ACR Digital Assets Policy and Procedures, as set forth on the ACR Website and amended from time-to-time.

“ACR Fee Schedule” has the meaning set forth in Section 9(a).

“ACR-Linked Platform” means an External Marketplace approved by ACR as indicated on the ACR Website and updated from time to time. ACR Linked Platforms are individually approved for specific activities (e.g., operating an exchange platform, hosting auctions, operating a Retail Aggregator marketplace) and, as it relates to ERTs and ROCs, Account Holder may only engage with an ACR-Linked Platform for the activities that ACR has explicitly approved.

“ACR Privacy Policy” means the ACR Privacy Policy, as set forth on the ACR Website and amended from time to time.

“ACR Registry Operating Procedures” means the ACR Registry Operating Procedures, as set forth on the ACR Website and amended from time to time.

“ACR Standard” means the ACR Standard, as set forth on the ACR Website and amended from time to time.

“ACR Website” means the website of the ACR program, located at <https://americancarbonregistry.org/> as of the publication of this document.

“ACR Website Terms of Use” means the ACR Website Terms of Use, as set forth on the ACR Website and Registry Site and amended from time to time.

“ACR Validation and Verification Standard” means the ACR Validation and Verification Standard, as set forth on the ACR Website and amended from time to time.

“Administrator” has the meaning set forth in the preamble.

“Applicable Export/Sanctions Laws” has the meaning set forth in 7(r).

“Applicable Law” means any applicable local, state, national, or international law, statute, regulations, ordinance, or other means of establishing legal rights and obligations.

“Bank” means any of the following:

- (i) any banking institution chartered by the Office of the Comptroller of the Currency;
- (ii) any banking institution organized under the laws of any State, territory, or the District of Columbia, the business of which is substantially confined to banking and is supervised by the State or territorial banking commission or similar official; or
- (iii) any savings and loan association, building and loan association, cooperative bank, homestead association, or similar institution, which is supervised and examined by State or federal authority having supervision over any such institution.

“Beneficial Ownership Rights” with respect to any ERT, means any contractual or other right to direct or control the sale, transfer, retirement, or other disposition of such ERT.

“Confidential Information” has the meaning set forth in Section 15(b).

“Default” has the meaning set forth in Section 12(a).

“Demanding Party” has the meaning set forth in Section 30(a).

“Digital Assets” has the meaning set forth in Section 6(e)(v).

“Disclosing Party” has the meaning set forth in Section 15(b).

“Dispute” has the meaning set forth in Section 30(a).

“Due Date” has the meaning set forth in Section 10(b).

“External Marketplace” has the meaning set forth in Section 6(e).

“Fees” has the meaning set forth in Section 9(a).

“Indirect Owner” has the meaning set forth in Section 6(b)(ii). For the avoidance of doubt, an affiliated entity with a direct ownership connection to the Account Holder, such as a parent or subsidiary company of the Account Holder or an entity that shares a common ultimate parent company with the Account Holder does not constitute an Indirect Owner.

“Indemnified Party” has the meaning set forth in Section 20.

“Omnibus Holdings” has the meaning set forth in Section 6(c).

“Omnibus Retirements” has the meaning set forth in Section 6(b).

“Operative Documents” has the meaning set forth in the preamble.

“Party” and “Parties” have the meaning set forth in Section 1.

“Receiving Party” has the meaning set forth in Section 15(b).

“Registry” has the meaning set forth in the preamble.

“Registry Data” has the meaning set forth in Section 5(a).

“Registry Operator” means the entity with whom ACR has a contract to provide Registry platform services.

“Registry Participant” has the meaning set forth in Section 3(b).

“Registry Site” means the website of the Registry, located at <https://acr2.apx.com/> as of the publication of this document.

“Regulated Person” means any of the following:

- (i) Any Bank;
- (iv) Any broker or dealer that (A) is registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended; and (B) is a member of all requisite self regulatory organizations;
- (v) Any member of the National Futures Association that is registered under the Commodity Exchange Act, as amended, as a futures commission merchant, introducing broker, commodity pool operator, commodity trading advisor or floor broker;
- (vi) (A) any investment company registered under the Investment Company Act of 1940, as amended; (B) any investment adviser registered under the Investment Advisers Act of 1940, as amended; or (C) any fund that has assets under management with an aggregate market value of no less than \$100 million and that is advised or managed by an investment adviser registered under the Investment Advisers Act of 1940, as amended;
- (vii) Any “business development company” as defined in (A) Section 2(a)(13) of the Investment Company Act of 1940, as amended, or (B) Section 202(a)(22) of the Investment Advisers Act of 1940, as amended;
- (viii) (A) any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees; (B) any employee benefit plan within the meaning of title I of the Employee Retirement Income Security Act of 1974, as amended; or (C) any trust fund whose trustee is a Bank and whose participants are exclusively plans of the types identified in the above clause (A) or (B), except trust funds that include as participants individual retirement accounts or H.R. 10 plans;
- (ix) any seller that has been granted authorization to engage in sales for resale of electric energy, capacity or ancillary services from the Federal Energy Regulatory Commission pursuant to Section 205 of the Federal Power Act, as amended, and the requirements of 18 C.F.R. § 35; or

(x) any person who demonstrates to the satisfaction of Administrator that it qualifies as the equivalent of one or more of the foregoing types of entities under the laws of the jurisdiction(s) to which it is subject.

“Reinstatement Fee” has the meaning set forth in Section 13(f)(i).

“Representatives” has the meaning set forth in Section 1.

“Restricted Person” has the meaning set forth in Section 7(r).

“Retail Aggregator” has the meaning set forth in Section 6(d).

“Retail Aggregator Omnibus Retirements” has the meaning set forth in Section 6(d)(iii).

“Retail Purchaser” has the meaning set forth in Section 6(d)(iv).

“Sanctioned Territory” has the meaning set forth in 7(r).

“Software” means any software used in providing, accessing (other than commercially available third-party internet browsers) or using the Registry.

“Taxes” has the meaning set forth in Section 10(f).

“Users” has the meaning set forth in Section 1.

“Verifier” means a validator, verifier, or validation/verification body approved pursuant to the American Carbon Registry Standards or other verification approval processes or programs accepted by ACR, including compliance program approved verifiers and verification bodies.