

Carbonfields

Removing carbon. Rewarding farmers.

Account Application Form



Account Application

Account Information

Land Owning Entity: ☐ Sole Trader ☐ Joint A/C ☐ Partnership ☐ Company ☐ Trust (must provide a copy of your Trust Deed)

☐ Other (please specify):

Names of Landowners (individual/s, entity/ies):

Account Name (if different):

Company Number (if applicable):

GST Number:

Farm Type: ☐ Dairy ☐ Sheep ☐ Beef ☐ Deer ☐ Other

☐ Received and reviewed Carbon Assessment Report (tick yes)

☐ Property Area and Title details in the Carbon Assessment Report are correct (tick yes)

Carbon Assessment Report Number:

Address

Postal Address:

Residential Address (if different from above):

Farm Address (if different from above):

Bank Account Details & MPI Fees

Bank account required for proceeds for the sale of carbon to be credited, no cheques will be issued

Please attach one of the following approved documentation form showing the Account Name and Bank Account Number:
Deposit Slip / Bank Statement / Screen shot of online Banking or Photograph / PDF of original document form.

Carbonfields will pay all MPI registration and annual fees as required and then invoice the ETR account holder identified above.
Refer to Page 9 for a table of these fees or the MPI website.

Carbonfields Representative: Full Name
of Carrfields Livestock Limited for and on behalf of and as agent for Carbonfields Limited.

Authorised Individual/s

(All individuals, partners, trustees and authorised directors of the applicant(s) listed on the title must complete this section, even if they do not intend on using the account).

Full Name (Primary Contact):

Relationship to owner (e.g. individual, partner, director, trustee):

Date of birth: / /

Postal Address:

Post Code:

Home Phone:

Mobile:

Email:

Driver's Licence No:

Version:

Expiry Date:

or Passport No:

Expiry Date:

Full Name (Primary Contact):

Relationship to owner (e.g. individual, partner, director, trustee):

Date of birth: / /

Postal Address:

Post Code:

Home Phone:

Mobile:

Email:

Driver's Licence No:

Version:

Expiry Date:

or Passport No:

Expiry Date:

Full Name (Primary Contact):

Relationship to owner (e.g. individual, partner, director, trustee):

Date of birth: / /

Postal Address:

Post Code:

Home Phone:

Mobile:

Email:

Driver's Licence No:

Version:

Expiry Date:

or Passport No:

Expiry Date:

Contact for Accounts

First Name:

Surname:

Role:

Phone:

Mobile:

Email:

Applicants Checklist

- ☐ Have all Parties Completed the Application
- ☐ Reviewed Carbon Assessment Report and inserted Report Number
- ☐ Application and Declaration below completed
- ☐ Copy of Trust Deed or proof of Partnership Trading Name attached
- ☐ Have you attached the approved Documents for the Bank Account

Application and Declaration

I/we on behalf of the applicant(s) acknowledge and declare that:

1. the information provided to Carbonfields and given in this application is true and correct;
2. I/we have read the Carbonfields Terms and Conditions attached to this application and agree to be bound by them;
3. I/we irrevocably authorise Carbonfields to make enquiries as it considers appropriate (including the credit reference agencies, bankers, solicitors, insurers and accountants), and to provide information to any third party for the purpose of carrying out credit checks, obtaining credit reports or debt collection which may then be held and used by that third party and used for its credit reporting purposes. Such third parties include but are not limited to: Veda Advantage (NZ) Limited, Private Bag 92156, Auckland Mail Centre, Auckland 1142
4. I/we understand and acknowledge that Carbonfields may reject this application and is not required to provide a reason. This includes where I/we do not provide the information requested by Carbonfields or refuse to grant Carbonfields the authority to obtain information about me/us in accordance with (c) and the Terms and Conditions.

Full Name:

Signature:

Date:

☐ I agree to the terms and conditions

Full Name:

Signature:

Date:

☐ I agree to the terms and conditions

You can return your completed application by:

Email: kerry.mcintosh@carbonfields.co.nz

Carbonfields Terms and Conditions

1. Introduction

1.1 This **Agreement** sets out the terms on which we will provide the **Services** to you. This Agreement is comprised of:

- (a) the Carbon Account Application Form on the preceding pages of this document (the **Application Form**);
- (b) these terms and conditions (the **Terms**); and
- (c) one or more schedules that we may enter into with you from time to time, which set out a specific Forest Area and the specific Services we will provide to you in relation to that Forest Area, and any other terms we may agree with you (each, a **Schedule**).

1.2 In this Agreement a reference to **we, us, or our** is a reference to Carbonfields Limited, and a reference to **you or your** is a reference to the person or entity who completed the Application Form, or on whose behalf the Application Form was completed.

1.3 Capitalised terms used in these Terms are defined below and in the Introduction section of these Terms. Capitalised terms used in a Schedule but not defined in these Terms will have the meaning given to them in the relevant Schedule, will be defined in that Schedule. If there is any conflict between these Terms and the terms in any Schedule, the terms in the Schedule shall take priority.

2. Definitions and interpretation

2.1 **Definitions:** In this Agreement unless the context otherwise requires:

Adverse Event means an adverse event prescribed in section 103 of the Climate Change (Forestry) Regulations 2022.

Associated Person has the meaning given to that term in section YB1 of the Income Tax Act 2007.

Break Fees means the break fees specified in each Schedule, and break fee means any one of them.

CCRA means the Climate Change Response Act 2002 and includes all regulations made pursuant to that Act.

Commencement Date means the Commencement Date of a Schedule, as specified in each Schedule.

Customer Forestry Right means a Forestry Right in respect of a Forest Area granted in favour of you (if any).

Data means all data, content and information (including Personal Information) owned, held, used or created by you or on your behalf that is inputted into and/or stored on the Platform.

Encumbrance includes any security interest (as defined in the Personal Property Securities Act 1999), mortgage, charge, lien, pledge, hypothecation, restriction against transfer, encumbrance and other third party interest (whether legal or equitable).

ETR means the Emissions Trading Register being the register for NZUs defined as "Registry" in the CCRA.

ETS means the Emissions Trading Scheme defined as "emissions trading scheme" in the CCRA and includes any replacement scheme (whether established under the CCRA or any replacement legislation).

ETS Application means the Customer's application for registration of the Forest Area in the ETS.

Force Majeure Event means, in relation to a party (**Affected Party**), any event that is beyond its reasonable control which makes it impossible or illegal for it to perform its obligations under this Agreement, and which the Affected Party could not reasonably be expected to have foreseen at the date of this Agreement, including:

- (a) a natural or an accidental event which is an Adverse Event rendering the Forest Area(s) incapable of generating NZUs;
- (b) fire, explosion, force of nature, earthquake or other environmental event, in each case not affecting the ability of the Forest Area (or part thereof) to generate NZUs; a strike, lockout or other industrial disturbance

that does not relate solely to the Affected Party's workforce;

- (c) a governmental restraint, sanction, expropriation, prohibition, intervention, direction or embargo;
- (d) an epidemic, pandemic or quarantine restriction;
- (e) a blockade, revolution, riot, insurrection, civil commotion, or public demonstration;
- (f) an act or threat of war or terrorism, or an act of sabotage or vandalism; or
- (g) a fault or failure of critical infrastructure, such as plant, machinery, payment systems, computer or communications equipment or software, but excluding a lack of funds for any reason.

Forest Area means an area of forest subject to this Agreement, as set out in a Schedule.

Forestry Right means right to benefit from a Forest Area whether registered under the Forestry Rights Registration Act 1983, or unregistered and whether created, granted or reserved under any document, instrument or other arrangement.

GST means goods and services tax payable under the Goods and Services Tax Act 1985 of New Zealand, at the rate prevailing at the time of supply.

Holding Account means an ETR holding account to be established, operated and maintained on your behalf, by us as account operator under this Agreement.

Initial Term has the meaning given to that term in a Schedule.

Insolvency Event means, in relation to a person, any of the following events:

- (a) that person suspends or ceases to carry on all or substantially all of its business or operations;
- (b) that person becomes bankrupt or insolvent under any applicable law;
- (c) that person makes or proposes to make any assignment, arrangement, compromise or composition with, or for the benefit of, any of its creditors;
- (d) any of that person's assets are subject to any form of seizure or execution;
- (e) a receiver, administrator, liquidator, trustee or statutory manager or similar insolvency administrator is appointed in respect of the whole or a material part of that person's assets;
- (f) if the person is incorporated, that person is removed from the register on which it is incorporated;
- (g) an application is made or proceedings are issued for a court order, or an order is made, or an effective resolution is passed, or any action of a similar nature is taken, for the dissolution or reorganisation of that person, except for the purposes of a solvent reconstruction previously approved in writing by the other party; or
- (h) anything analogous or having a substantially similar effect to any of the events specified in the paragraphs above happens under the law of any applicable jurisdiction in respect of that person.

Intellectual Property means any and all intellectual property or industrial rights of any description anywhere in the world, including any patents, trademarks, domain names, registered designs, rights in circuit layouts, copyright (including rights in URLs, computer software, object and source code), rights in the nature of copyright, performance rights, biological or other materials, image rights, database rights, unregistered design rights, rights in and to trade names, business names, product names and logos, inventions, databases, discoveries, specifications, formulae, processes, know how, concepts, ideas, trade secrets, confidential information and the right to have confidential information kept confidential and any analogous or similar right in any jurisdiction (whether any such rights referred to in this definition are registered,

unregistered, capable of registration or not and any applications or rights to apply for registration of any of them together with any registered rights resulting from any such applications or rights to apply for registration) and includes any enhancement, modification or derivative work of the Intellectual Property.

Land means the land on which any Forest Area is located as described in each Schedule.

Market Price means the estimated market price for NZUs, determined at the relevant time by Carbonfields us (acting reasonably) based on the trailing 7 day moving average price for NZUs from commtrade.co.nz or any replacement index.

New Registration Schedule means Schedule that is entered into by us and you in relation to a new Forest Area to be registered in the ETS and in respect of which we will provide Registration Services.

NZUs means "New Zealand units" as defined in section 4(1) of the CCRA.

Occupation Right means a lease, licence or other right of any kind entitling any person to occupy any Forest Area.

Objectionable includes being objectionable, defamatory, obscene, harassing, threatening, harmful, or unlawful in any way.

Personal Information means information about an identifiable, living person.

Platform means the platform licensed to us by a third-party service provider, which we may use to provide the Services to you.

Related Company has the meaning given to it in section 2(3) of the Companies Act 1993 (read as if the expression "company" in that subsection included any body corporate of any jurisdiction).

RMA means the Resource Management Act 1991 (or any amendment or replacement legislation).

Registration Services means the Services we will provide to you to assist you to obtain registration of a new Forest Area in the ETS as more particularly set out in a New Registration Schedule.

Schedule Term means the period from the Commencement Date of the relevant Schedule until the relevant Schedule is terminated or expires in accordance with clause 3.2.

Schedule has the meaning given to that term in the introduction and includes any New Registration Schedule, any Renewal Schedule and any Transfer Schedule, and Schedules means all of them.

Separable Part in relation to a Forest Area means an area of registered forest which can be separated from other areas of registered forest with respect to treatment under the ETS for forestry (for example a distinct "Carbon Accounting Area" (as defined in the CCRA)).

Services means the services we will provide to you under this Agreement as described in each Schedule.

Service Fees means the fees to be paid by you to us for performing the Services as specified in each Schedule.

Transfer Schedule means a Schedule in our then current form entered into between you and us in respect of which we will provide the Services specified in the Schedule in respect of a Forest Area in respect of which you are already registered as a participant in the ETS.

Working Day means a day (other than a Saturday, Sunday or public holiday (or day observed)) on which registered banks are open for general banking business in Christchurch, New Zealand, and excludes any day in the period commencing on 24 December and ending on 5 January in any year.

2.2 **Interpretation:** In this Agreement, unless the context otherwise requires:

- (a) headings are to be ignored;

Carbonfields Terms and Conditions *(continued)*

- (b) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether before or after the date of this agreement);
- (c) a reference to a party, person or entity includes:
 - (i) an individual, partnership, firm, company, body corporate, corporation, association, trust, estate, state, government or any agency thereof, municipal or local authority and any other entity, whether incorporated or not (in each case whether or not having a separate legal personality); and
 - (ii) an agent, successor, permitted assign, executor, administrator and other representative of such party, person or entity;
- (d) a right or power may be exercised from time to time and at any time;
- (e) the singular includes the plural and vice versa;
- (f) where a party is made up of more than one person, the liability of each of those persons is joint and several unless otherwise specified in this Agreement;
- (g) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form; and
- (h) the meaning of general words is not limited by specific examples introduced by "including", "includes" or "for example" or similar expressions.

3. Term

- 3.1 This Agreement will commence on the date it is signed, and continue (unless terminated in accordance with these Terms) for so long as the parties have any Schedules in force, following which the Agreement as a whole will expire.
- 3.2 A Schedule is in force during its Initial Term, and on expiry of its Initial Term, the term of the Schedule will automatically renew for successive periods of one year each (each a **Renewed Term**), unless you provide us with notice in writing at least 30 days prior to the commencement of any Renewed Term stating that you do not wish to renew the relevant Schedule.
- 3.3 If we are providing Registration Services pursuant to a New Registration Schedule and your registration as a participant in the ETS in respect of the entirety of the Forest Area specified in the New Registration Schedule is not successful, the New Registration Schedule will be at an end. Where a New Registration Schedule ends under this clause 3.3 you will not be required to pay the Break Fees specified in that New Registration Schedule.

4. Services and Services Fee

- 4.1 During each Schedule Term, we will provide the Services specified in the relevant Schedule to you in accordance with this Agreement. In providing the Services, we will:
 - (a) use reasonable care and skill;
 - (b) provide and maintain appropriate resources to enable us to fulfil our obligations under this Agreement; and
 - (c) comply with all laws relevant to the provision of the Services by us.
- 4.2 In consideration for the performance of the Services you must:
 - (a) pay the Service Fees specified in the Schedules;
 - (b) pay us commission on any NZUs we sell on your behalf at the rate specified in the relevant Schedule and if none, our standard rate charged from time to time; and
 - (c) reimburse us for the costs we incur in providing the Services to you, including costs and/or disbursements associated with creating or maintaining your Holding Account, filing any ongoing monitoring, reporting or emissions returns (but excluding the fees payable by you in accordance with clause 4.3), and any other costs or disbursements otherwise agreed in writing between you and us (including in a Schedule) (**Costs**).

- 4.3 Where we are providing Registration Services pursuant to a New Registration Schedule, you must pay us an amount equal to the fees required to register as a participant in the ETS in respect of the relevant Forest Area prior to us submitting your application to register. We will advise you of the amount payable when the application is ready to file, and will pay the registration fee on your behalf.
- 4.4 GST is payable on the Service Fees at the same time and in the same manner as payment for the relevant supply.

5. Payment

- 5.1 You agree that payment of the Service Fees, reimbursement of all Costs together with GST on those amounts will be satisfied by you transferring NZUs from your Holding Account to a holding account nominated by us in. Subject only to us complying with our obligations under this clause 5, you irrevocably authorise us to apply from time to time, the relevant number of NZUs in your Holding Account required to make the payments contemplated by this clause 5.
- 5.2 Prior to applying any NZUs in your Holding Account to make payments due to us, we will provide you with a valid tax invoice for GST purposes. Each tax invoice will provide a breakdown of the Service Fees and Costs claimed by us. We will provide you with information to support the Costs being claimed if you ask us to. We will also tell you the proposed number of NZUs which we take to satisfy payment of that invoice (including details of the Market Price as at the date of the invoice, and details of the calculation we have used to determine the number of NZUs).
- 5.3 Unless a Schedule specifies otherwise, or we have otherwise agreed with you, we will invoice you for Services provided on an annual basis in arrears, and our invoices are due for payment on the 20th Working Day of the month following the month in which our invoice was issued.
- 5.4 If you genuinely dispute any amount appearing as payable on any invoice issued by us and/or the number of NZUs claimed:
 - (a) you must notify us of the dispute in writing at the earliest available opportunity and in any event within 20 Working Days of receiving the relevant invoice (the **Disputed Amount**);
 - (b) we may transfer that number of NZUs from your Holding Account as is required to satisfy payment of the non-Disputed Amount, but will not transfer NZUs from your Holding Account to satisfy the Disputed Amount (**Disputed NZUs**) until the dispute is resolved (provided that, if we have already applied NZUs from your Holding Account to make payment, we will not make any further transfers of the Disputed NZUs until the dispute is resolved); and
 - (c) the dispute will be resolved in accordance with clause 14.
- 5.5 If we have not received notice under clause 5.4 by the due date for payment of the relevant invoice, we will transfer the number of NZUs set out in the relevant invoice from the your Holding Account to a holding account nominated by us.
- 5.6 Within five (5) Working Days of the transfer of NZUs under clause 5.5, we will provide written notice to the you confirming the number of NZUs that were transferred and the Market Price as at the date of the transfer. If the Market Price is more or less than the amount set out in the relevant invoice (resulting in the value of the NZUs being more or less than the relevant invoice), the difference will be a credit or debit (as relevant) on the following invoice.
- 5.7 We will keep full records of the amount of NZUs taken for payment as contemplated by this clause 5 for the term of this Agreement and for a period of six (6) years following the expiry or earlier termination of this Agreement. We will provide you with copies of such records on your request.

6. Holding Account and our interest in NZUs generated from Forest Areas

- 6.1 You acknowledge that:
 - (a) we have an interest in a share of the NZUs that are expected to be generated from the Forest Areas;
 - (b) any transactions affecting the Forest Areas may affect our interest in our share of the expected NZUs; and
 - (c) your obligations to us under this Agreement have been inserted, amongst other reasons, to protect our interest in our share of the expected NZUs and are reasonable to protect that interest.
- 6.2 For the purposes of establishing (where relevant), and operating and maintaining your Holding Account, you:
 - (a) (for any New Registration Schedule) consent to your registration as a participant in the ETS with respect to the Forest Area specified in the New Registration Schedule;
 - (b) (for any Transfer Schedule) consent to us becoming the account operator of the Holding Account for the relevant Forest Area/carbon accounting areas with the ETR; and
 - (c) appoint us as your agent to act in relation to the your Holding Account, including to operate and manage the Holding Account, to approve transactions within the Holding Account, and to file all documentation and instructions (including notices, emissions returns and interested party consent forms), and to do such other acts as necessary to establish (for any New Registration Schedule), operate and maintain your Holding Account.
- 6.3 Our authority as agent pursuant to clause 6.2(c) is subject to the following:
 - (a) except for a transfer of NZUs permitted by clause 5, we will not transfer (or authorise any transfer of) any NZUs from the your Holding Account without your prior written approval;
 - (b) we will provide copies of all notices, emissions returns, interested party consent forms and any other documentation to you prior to submitting or filing such documents (provided that the your approval or otherwise of such documentation shall not in any way affect our liability under this Agreement);
 - (c) we will not make any changes to the your Holding Account without the your prior written approval; and
 - (d) we will notify you as soon as practicable of any material notice, document, instruction, or information received or obtained by us in relation to your Holding Account and/or Forest Area.
- 7. **Your general obligations to us**
 - 7.1 You must take appropriate measures in the circumstances (in your discretion) to protect and maintain the Forest Areas so that the Forest Areas are able to earn NZUs.
 - 7.2 You must not do anything that interferes with us performing the Services or (subject to clause 5.4) receiving payment of any Services Fees or Costs due and payable to us in each case, without our prior written consent.
 - 7.3 As a registered participant in the ETS, you acknowledge that you will have obligations under the CCRA, including obligations to:
 - (a) submit mandatory emissions returns and provide information in relation to the Forest Areas;
 - (b) surrender NZUs if your carbon stock decreases, any part of the Forest Area is deforested, any trees within the Forest Area are harvested and not re-planted, or forest land is removed from the ETS;
 - (c) notify the ETR of any changes to your registration; and
 - (d) notify the ETR in the event of any changes in ownership of the Forest Area, including any lease, forestry right or other right of possession in relation to the Forest Area (including any Forestry Right).

Carbonfields Terms and Conditions *(continued)*

7.4 In providing the Services, we will use reasonable commercial endeavours to assist you to comply with your obligations under the CCRA. You agree to provide us with all information and such cooperation as we may reasonably require from time to time to provide the Services to you and you acknowledge and agree that we will not and cannot be liable for any failure by you to comply with your obligations under the CCRA. You acknowledge that we are not providing any insurance as part of or in relation to our obligations under this Agreement.

7.5 You also acknowledge that

- (a) participants with 100 hectares or more of post-1989 forest land registered in the ETS are subject to the requirements of the Field Measurement Approach (as prescribed by the Ministry for Primary Industries) for the purpose of completing emissions returns;
- (b) if information supplied within the Application is required by the Inventory Agency or Registrar of the ETR to carry out their functions under the CCRA, then the Chief Executive responsible for the operation of the ETS must supply that information to them. This information can only be used by the Inventory Agency or Registrar of the ETR for the purposes of carrying out their functions under the CCRA;
- (c) if you provide (or is aware that any third party has provided) any altered, false, incomplete or misleading information which is included in or with the Application, that may constitute an offence under the CCRA and result in imprisonment or a fine up to:
 - (i) \$50,000; and
 - (ii) if there is a Forestry Right in place and it expires or is terminated, you are solely responsible for submitting all relevant forms and emissions returns (including an emissions return and a transfer of participation form) and will be responsible for any liability that may arise under the CCRA and ETS in relation to the expiry or termination of the Customer Forestry Right (including a surrender of NZUs).

8. Forestry Rights and sale or deregistration of Forest Area and/or underlying Land

- 8.1 You confirm and undertake to us that, as at the Commencement Date of a Schedule and throughout the Schedule Term, the Forest Area specified in that Schedule is not subject to any Forestry Right, or Occupation Right, other than a Customer Forestry Right, or Occupation Right disclosed to us in writing prior to the Commencement Date of, and expressly referred to in, that Schedule.
- 8.2 Where any Forestry Right or Occupation Right is expressly referred to in a Schedule, you:
- (a) confirm that you have (if required) the permission from the holder of the Forest Right or Occupation Right to register that Forest Area in the ETS; and
 - (b) will promptly notify us in writing of any proposed amendment, assignment, transfer, expiry or renewal of the Forestry Right or Occupation Right.
- 8.3 Subject to clause 8.6, you must obtain our prior written consent before entering into, granting, assigning or transferring any Forestry Right or Occupation Right in relation to any Forest Area (including a Customer Forestry Right). We will not unreasonably withhold or delay our consent under this clause 8.3 provided that (in relation to the grant, assignment or transfer of a Forestry Right (including a Customer Forestry Right), you comply with your obligations under clause 8.4.
- 8.4 You may:
- (a) sell or transfer ownership of all or any Separable Part of any Forest Area, or your rights under a Customer Forestry Right provided that:
 - (i) you enter into, and you procure the buyer or transferee to enter into, a deed of novation in the form set out in the schedule to this Agreement pursuant to which the buyer/transferee agrees

in our favour to perform your obligations under this Agreement; or

- (ii) the buyer or transferee enters into an agreement with us on substantially the same terms as this Agreement;
 - (b) terminate the relevant Schedules (where you are selling or transferring a Separable Part(s) of the Forest Area(s)), or this Agreement (where you are selling or transferring all Forest Areas or all your rights under any Customer Forestry Right(s) in relation to all Forest Areas), provided that you pay the Break Fee to us;
 - (c) create a Forestry Right in favour of an Associated Person provided that:
 - (i) (where the Forestry Right relates to all Forest Areas subject to this Agreement) you enter into, and you procure the Associated Person to enter into, a deed of novation in the form set out in the schedule to this Agreement pursuant to which the Associated Person agrees in our favour to perform your obligations under this Agreement; or
 - (ii) (where you will retain Forest Areas subject to this Agreement) the Associated Person enters into an agreement with us on substantially the same terms as this Agreement.
- 8.5 You may deregister as a participant in the ETS (and remove all of the Forest Areas from the ETS) or remove Separable Parts of the Forest Areas from the ETS at any time in your discretion, in which case:
- (a) you will not be required to pay Break Fees to us;
 - (b) we will promptly provide you with all information and records we hold or have access to in relation to the Holding Account and/or the parts of the Forest Areas being removed from the ETS;
 - (c) we will be entitled to payment of Service Fees that relate to the parts of the Forest Areas that have been removed for the period up until the date of removal, which must be paid to us prior to any surrender of NZUs by you; and
 - (d) you will be responsible for paying the fees associated with your de-registration from the ETS and/or removal of the Forest Areas from the ETS. You must pay an amount equal to those fees to us in advance, promptly following our advice to you of the amount required. We will pay those fees on your behalf when we submit your application to deregister/remove the Forest Areas from the ETS; and
 - (e) this Agreement (together with the relevant Schedules) will cease to apply to the parts of the Forest Areas that have been removed from the ETS; and
 - (f) you will be responsible for submitting all relevant forms and emissions returns after the date we submit your application to deregister and remove Forest Areas from the ETS, and will be responsible for any liability that may arise under the CCRA and ETS in relation to the deregistration or removal of the Forest Area(s) from the ETS (including a surrender of NZUs).
- 8.6 Nothing in this Agreement shall affect or limit the your ability to:
- (a) grant an Encumbrance over any Forest Area, or otherwise enter into any other funding or finance arrangement in relation to the Forest Areas; or
 - (b) enter into any arrangement (including granting an interest in relation to the Land) required for your normal business operations, provided that such grant or arrangement does not interfere with our interest in the NZUs attributable to the Forest Areas or with your obligations under the CCRA.
- 8.7 You acknowledge and agree that where Break Fees are payable by you to us, the Break Fee(s):
- (a) represent the amount we would have received had the Schedule continued for the Schedule Term;
 - (b) are not a penalty, but are fair and reasonable compensation in the circumstances for Services we have performed for you.

9. Warranties

9.1 You represent and warrant to us that:

- (a) you are the registered proprietor of the Land, unless there is a Customer Forestry Right in place, in which case (in relation to the Forest Areas to which any Customer Forestry Right relates) you warrant and represent that the Forestry Right grants you the right to participate in the ETS, enter into and perform your obligations under this Agreement and obtain the relevant Services from us;
 - (b) you have the power, authority and capacity to enter into this Agreement and to obtain the Services from us;
 - (c) your entry into this Agreement or any Schedule does not breach any of your constituent documents (such as a trust deed, constitution or limited partnership agreement) or any other legally binding agreement between you and any other person (including any Forestry Right);
 - (d) all actions since 1 January 2008 in relation to the Forest Areas (including, but not limited to, removal of any existing vegetation before planting of a forest species on any Forest Area) have complied with the provisions of the RMA (including any plan under the RMA) and/or the Forests Act 1949 (in each case, as in force at the time the action was taken);
 - (e) if any post-1989 Forest Area is subject to a pest management plan under the Biosecurity Act 1993 (that imposes requirements in respect of any forest species on the Forest Area), then you have either complied with those requirements, or verified that any other person required to comply with those requirements has done so;
 - (f) the forest species on the Forest Areas are not predominantly naturally regenerated tree weeds; and
 - (g) any information you have provided to us is at the time given, accurate and complete (so far as you are aware).
- 9.2 We represent and warrant to you that:
- (a) we have the power, authority and capacity to enter into this Agreement and provide the Services to you;
 - (b) the entry into this Agreement by us will not breach our constitution or any other legally binding agreement between us and any other person; and
 - (c) any information we have provided to you was, at the time given, accurate and complete (so far as we are reasonably aware).
- 9.3 You acknowledge and agree that we have relied on the representations and warranties set out in clause 9.1 in agreeing to provide the Services to you. The representations and warranties contained in clause 9.1 will be deemed to be repeated by you at all times during the Term.

10. Intellectual property

- 10.1 Nothing expressed or implied in this Agreement confers on any party any proprietary rights in respect of the other party's Intellectual Property existing as at the date of this Agreement (**Pre-existing IP**). If and to the extent that any new Intellectual Property is created in connection with the provision of the Services or pursuant to this Agreement (**New IP**), that new IP will vest immediately on creation in us, and be owned exclusively by us. You must not contest or dispute that ownership, or the validity of those Intellectual Property rights.
- 10.2 We grant you a non-exclusive, non-transferable, royalty-free licence to use our Pre-existing IP, or any New IP for your own internal purposes to the extent necessary to enable you to receive the benefit of the Services provided by us to you under this Agreement.
- 10.3 We may provide you with access to a third-party software platform to assist us to provide the Services to you. Where we do so, we confirm we have the right to grant that access to you, and you agree to follow our instructions in connection with the use of that the Pplatform, and not do anything that might breach the terms of the licence we hold from the

Carbonfields Terms and Conditions *(continued)*

third-party we may restrict or suspend your access to and use of the Platform and suspend providing the Services to you if we consider that you have (or any one you are responsible for has):

- (a) undermined, or attempted to undermine, the security or integrity of the Platform;
- (b) used, or attempted to use the Platform for improper purposes or in a manner that materially reduces the operational performance of the Platform;
- (c) transmitted, inputted, provided or stored any Data that breaches or may breach these Terms or any third party rights or that is or may be Objectionable, incorrect or misleading.

10.4 If and to the extent that we are relying on any of your Data, Pre-existing IP, or any Intellectual Property provided or licenced to you in connection with the Services, you warrant that you have all necessary rights to, and you grant to us a non-exclusive, fully paid up, non-transferable, royalty-free, irrevocable licence to use, copy, modify, make available, communicate and adapt all information and materials provided to us to the extent necessary for us to provide the Services to you and otherwise perform our obligations under this Agreement.

11. Confidentiality

11.1 We agree to keep confidential all information relating to you which might reasonably be expected to be confidential in nature (including, but not limited to, your contact information, financial records, business operations, and property information) (**Confidential Information**).

11.2 We will not:

- (a) use any Confidential Information except in the performance of our obligations and exercise of our rights under this Agreement; and/or
- (b) disclose any Confidential Information to any third party except to the extent:
 - (i) required by law, by any relevant regulatory body or regulatory authority or by the rules of any recognised stock exchange;
 - (ii) the information is already or becomes public knowledge, otherwise than as a result of a breach by us of our obligations under this clause 11; or
 - (iii) necessary to perform our obligations under this Agreement or to enforce our rights under this Agreement or establish any defence in any legal proceedings relating to this Agreement.

12. Limitations on Liability

12.1 All warranties and representations (whether express or implied), except those expressly set out in these Terms, are excluded to the maximum extent permitted by law.

12.2 We will not be liable to you (whether in contract, tort (including negligence), or otherwise) for any loss, damage, cost or expense (**Loss**):

- (a) to the extent you caused or contributed to the event giving rise to the Loss; or
- (b) to the extent that the use or unavailability of the Platform has caused or contributed to the Loss; or
- (c) that is indirect, consequential, or of a special nature, including any loss of revenue or profit, loss of anticipated savings, or loss of goodwill or opportunity.

12.3 Our maximum aggregate liability to you for any Loss suffered or incurred by you under or in connection with this Agreement (whether in contract, tort (including negligence), or otherwise) is limited to an amount equal to the Service Fees actually paid by you to us in relation to the Services giving rise to the Loss.

12.4 The parties agree that:

- (a) [the parties are in trade and nothing in sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 (FTA) apply to this agreement and no proceedings may be brought by any party to this agreement for an

order under section 43 of the FTA in relation to a contravention of section 9, 12A, 13 or 14(a1) of the FTA in relation to this Agreement and it is fair and reasonable that the parties are bound by this clause 12.4(1)]; and

- (b) this is a commercial agreement and the provisions of the Consumer Guarantees Act 1993 do not apply.

12.5 You acknowledge that:

- (a) you have made your own assessment of the Services, and have reviewed the explanatory documents provided by us;
- (b) you have had the opportunity to ask further questions on that documentation; and
- (c) you have considered the implications of the decision to register the Forest Area in the ETS, and elected to proceed with registration without any undue pressure from us.

13. Termination

13.1 A party (Terminating Party) may terminate this Agreement immediately if:

- (a) the other party breaches any term of this Agreement in a material way and fails to remedy that breach within 30 days after receiving written notice from the Terminating Party requiring it to do so; or
- (b) an Insolvency Event occurs in relation to the other party.

13.2 If we are entitled to, and terminate this Agreement under clause 13.1 prior to the expiry of the Initial Term of any Schedule, you must pay us the Break Fees specified in that (or those) Schedule(s). If you are entitled to, and terminate this Agreement under clause 13.1 prior to the expiry of the Initial Term of any Schedule, you will not be liable to pay us any Break Fees.

13.3 For clarity, you may only terminate this Agreement and/or any Schedule:

- (a) if you are entitled to do so under clause 13.1(a);
- (b) if all Schedules have been brought to an end in accordance with clause 3.2;
- (c) if you deregister as a participant in the ETS and remove all of the Forest Areas from the ETS; or
- (d) following payment of the Break Fees to us (where the Initial Term of any Schedules being terminated has not expired).

13.4 You must give us not less than 30 days' written notice of your intention to terminate this Agreement (or a relevant Schedule) under clause 13.3. No termination under clause 13.3(d) will be effective until the Break Fees have been paid to us in the manner directed by us.

13.5 If this Agreement (or a relevant Schedule) is terminated for any reason:

- (a) all amounts accrued or otherwise owed by one party to another under this Agreement (or the relevant Schedule) will be immediately due and payable;
- (b) once all amounts owed by one party to another under this Agreement have been paid in full, we will remove our authority on your Holding Account;
- (c) we will deliver to all records, documentation and other materials in our possession in relation to the provision of the Services relating to the relevant Schedule to you; and
- (d) any provisions of this Agreement which are expressed to or are intended by their nature to survive termination shall remain in full force and effect following termination.

13.6 If all Schedules to this Agreement have been terminated, or have expired and have not been renewed, and no new Schedule is entered into for a period of 6 months after the date the last Schedule expired or was terminated, this Agreement shall be deemed to be terminated. If this Agreement is entered into in anticipation of one or more Schedules being entered into, and the parties do not enter into

a Schedule within [12 months] of the date of this Agreement, this Agreement will be deemed to be terminated.

13.7 Termination of this Agreement will be without prejudice to any of the parties' rights or obligations which have accrued under this Agreement prior to termination.

14. Disputes

14.1 If a dispute arises under this Agreement, the parties will attempt to resolve the dispute using the dispute resolution process set out below.

14.2 Either party can initiate the dispute resolution process by giving written notice of the dispute to the other party (**Dispute Notice**). Upon the other party receiving the Dispute Notice, the parties will work together in good faith to resolve the dispute.

14.3 If the dispute is not resolved within 30 days of a Dispute Notice being given (or any longer period agreed to by the parties), any party may provide written notice to the other requiring the dispute to be referred to mediation. If the parties do not agree on the mediator within 14 days of notice referring the dispute to mediation being given, the mediator shall be appointed by the president (or his or her nominee) of the Arbitrators' and Mediators' Institute of New Zealand Inc. The guidelines to govern the mediation shall be agreed between the parties or, failing agreement within 14 days of the appointment of the mediator, determined by the mediator.

14.4 If the dispute is not resolved by mediation within 60 days of the dispute being referred to mediation (or any longer period agreed to by the parties), the mediation must cease and any party may commence proceedings in order to resolve the dispute.

14.5 Nothing in this clause 14 precludes or prevents a party from taking steps to seek urgent interlocutory relief before an appropriate court.

14.6 While any dispute remains unresolved, the parties agree to continue the performance of this Agreement to the extent that such performance is possible given the nature of the dispute.

15. Force majeure

15.1 If a party (the **Affected Party**) is unable to perform or carry out any obligation under this Agreement due to a Force Majeure Event, this Agreement will remain in effect but the obligations affected by the Force Majeure Event (and the other party's corresponding obligations, if any) will be suspended, without liability, from the time of the Force Majeure Event until the Force Majeure Event is resolved and performance of the obligations can reasonably resume.

15.2 The Affected Party must:

- (a) as soon as is reasonably possible, notify the other party in writing detailing the nature of the Force Majeure Event, its expected duration and effect on this Agreement;
- (b) use reasonable commercial endeavours to remedy the inability to perform the obligations and to mitigate the effects of the Force Majeure Event;
- (c) provide regular reports to the other party on the Force Majeure Event and the Affected Party's endeavours to overcome it (until the Force Majeure Event is resolved); and
- (d) notify the other party in writing immediately after the Force Majeure Event is resolved.

15.3 If the Force Majeure Event continues for a period of more than 30 days, the parties agree to consult together for the purposes of agreeing what action should be taken in the circumstances and, if appropriate, must negotiate in good faith to amend and modify appropriately the provisions and terms of this Agreement as necessary to deal with the reason for the inability to perform.

15.4 If the parties have not dealt with the Force Majeure Event to the satisfaction of all parties within 60 days of it first occurring, the unaffected party may

Carbonfields Terms and Conditions *(continued)*

terminate this Agreement immediately by providing written notice of termination to the Affected Party. Where you rely on this clause 15.4 to terminate the Agreement:

- (a) you must pay us the Break Fees, if termination of this Agreement results in the termination of one or more Schedules during the Initial Term of that (or those) Schedules; but
- (b) you will not be required to pay the Break Fee if we are the Affected Party and the Force Majeure Event affects us, but not other providers of carbon management services under the ETS.

15.5 If the Force Majeure Event:

- (a) was an Adverse Event;
- (b) the parties' obligations have not been suspended under clause 15.7; and
- (c) the parties have not dealt with the Force Majeure Event to the satisfaction of all parties within 60 days of it first occurring,

you may terminate this Agreement immediately by providing written notice of termination to us and, notwithstanding clause 15.4, you will not be liable to pay us any Break Fees.

15.6 An Affected Party is not by reason of a Force Majeure Event relieved of its obligations to pay any moneys payable by it under this Agreement.

15.7 For the purposes of clause 15.3, the parties acknowledge that for so long as a 'temporary adverse event suspension' is granted to the Customer under the CCRA in relation to a Forest Area (or any part of a Forest Area), this Agreement will remain in effect but the obligations affected by the Force Majeure Event resulting in the 'temporary adverse event suspension' (and the other party's corresponding obligations, if any) for that Forest Area (or part Forest Area) will be suspended, without liability, and clauses 15.4 and 15.5 will not apply.

16. Subcontracting

16.1 We may subcontract any part of the performance of the Services under this Agreement to any third party without your prior written consent.

16.2 Where we subcontract any part of the Services to a third party we remain responsible to you for the proper performance of all subcontracted obligations.

17. Notices

17.1 Every notice or other communication (**Notice**) for the purposes of this Agreement must be in writing and given in accordance with this clause.

17.2 A Notice may be given by:

- (a) delivery to the physical address of the receiving party, in which case it will be deemed received at the time of delivery;
- (b) sending it by email to the email address of the receiving party, so long as clause 17.3 is complied with.

17.3 A Notice sent by email:

- (a) between the hours of 9am and 5pm on a Working Day is deemed received at the time of transmission;
- (b) outside of the hours of 9am to 5pm on a Working Day is deemed received at 9am on the next Working Day.

17.4 If receipt of a Notice sent by email is disputed, it will not be deemed received unless the party giving Notice produces a printed copy of the email which evidences that the email was sent to the email address of the party given Notice.

17.5 The address details of each party are those addresses listed in the Application Form or such other details as any party may notify to the other by Notice given in accordance with this clause 17.

18. Use of Data

18.1 You consent to us and our third party service providers:

- (a) accessing and using the Data to provide the Services to you;

(b) using the Data to

- (i) generate anonymized and aggregated statistical and analytical data (Analytical Data); and
- (ii) using Analytical Data for research and product development purposes, and to conduct statistical analysis and identify trends and insights; and
- (iii) supply Analytical Data to third parties.

18.2 You acknowledge and agree that title to and all Intellectual Property rights in the Analytical Data is owned by us or our third-party service provider and we, or our third-party service provider may store the Data and the Analytical Data in secure servers off-shore.

18.3 To the extent your Data contains Personal Information we will comply with the requirements of the Privacy Act 2020 and you can read our privacy statement here: <https://www.carrfields.co.nz/privacy-security/>

18.4 We or our third-party service provider may retain the Data for a minimum of seven (7) years, after which we may have it destroyed.

19. General

19.1 *Amendments:* No:

- (a) amendment to this Agreement;
- (b) agreement between the parties for the purpose of, or referred to in, this Agreement;
- (c) request, consent, or approval for the purposes of, or referred to in, this Agreement, is effective unless it is in writing and signed (if subclauses (a) or (b) apply) by all parties to this Agreement or (if subclause (c) applies) the party required to give the consent or approval.

19.2 *Authorised Individuals:* Where an Authorised Individual is named under the Application Form, you nominate and appoint that person to be your authorised person (the **Authorised Person**) for the purposes of clause 18.1 of this Agreement. You warrant to us that the Authorised Person has full power, authority and capacity to act for and on behalf of and to represent you in relation to all matters referred to in clause 18.1 of this Agreement, including agreeing and entering into any amendments for and on behalf of you. You may change your Authorised Person by notice in writing to us signed by you (or your duly authorised signatories).

19.3 *Counterparts:* This Agreement is deemed to be signed by a party if that party has signed or has attached its signature(s) to, any of the following formats of this Agreement:

- (a) an original; or
- (b) a photocopy; or
- (c) a PDF or email image copy, and if each party has signed or attached its signature(s) to any such format and delivered it in any such format to the other parties, the executed formats shall together constitute a binding Agreement between the parties.

19.4 *Further assurance:* Each party shall make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this Agreement.

19.5 *Assignment:* You may not directly or indirectly assign, transfer or otherwise dispose of any of your rights or interests in, or your obligations or liabilities under or in connection with this Agreement, except with our prior written consent. We will not unreasonably withhold our consent in connection with a sale or transfer of the Forest Area provided that you have complied with your obligations under clause 8.4. We may assign, transfer or otherwise dispose of all or any of its rights or obligations under this Agreement to a Related Company without your consent provided that the Related Company agrees to assume and perform our obligations under this Agreement.

19.6 *Unenforceability:* If any provision or part of a provision of this Agreement is or becomes unenforceable,

illegal or invalid for any reason it shall be deemed to be amended to the minimum extent necessary to enable that provision to be enforceable, and shall not affect the enforceability, legality, validity or application of any other provision of this Agreement.

19.7 *No merger:* The provisions of this Agreement, and anything done under, or in connection with, this Agreement shall not operate as a merger of any of the rights, powers or remedies of any party under, or in connection with, this agreement or at law, and those rights, powers and remedies shall survive and continue in full force and effect to the extent that they are unfulfilled.

19.8 *No implied relationships:* Subject to clause 6.2(c), nothing in this Agreement will be deemed or construed to constitute either party being a partner, agent or representative of the other party or to create any trust or commercial partnership. No party may act for, or incur an obligation on behalf of, the other party except as expressly provided in this Agreement.

19.9 *No caveat or Encumbrance:* Nothing in this Agreement is intended to, or will be construed as you granting to us:

- (a) any interest in the Land (or any part of the Land), and we will not register any Encumbrance or caveat against the Land; or
- (b) any security interest in the your NZUs or other personal property (as defined in the Personal Property Securities Act 1999), and we will not register any Encumbrance against the Land, Forest Area, NZUs, or any of your other personal property.

19.10 *Waiver:* No failure or forbearance by a party to exercise, or delay in exercising, (in whole or in part) any right, power or remedy under, or in connection with, this Agreement shall operate as a waiver of that right, power or remedy. A waiver of any breach of any provision of this Agreement shall not be effective unless that waiver is in writing and is signed by the party against whom that waiver is claimed. A waiver of any breach shall not be, or be deemed to be, a waiver of any other or subsequent breach.

19.11 *Governing law:* This Agreement is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this Agreement.

19.12 *Independent Trustees:* If any person enters into this Agreement as trustee of a trust and if that person has no right to or interest in any assets of the trust, except in that person's capacity as a trustee of the trust, then that person's liability under this Agreement will not be personal and unlimited but will be limited to the actual amount recoverable from the assets of the trust from time to time ("the limited amount"). If the right of that person to be indemnified from the trust assets has been lost or impaired, that person's liability will become personal but limited to the extent of that part of the limited amount which cannot be recovered from any other person.

19.13 *Entire Agreement:* This Agreement (including any amendments, agreements, requests, consents or approvals agreed between the parties pursuant to clause 18.1 of this Agreement, and all Schedules entered into between the parties) constitutes the entire agreement between us and you in relation to the Forest Areas and supersedes any prior agreements, representations and understandings of the parties. If the Forest Areas (or any part of a Forest Area) has been subject to a prior carbon management agreement with us (**Prior Agreement**), then this Agreement replaces the Prior Agreement in relation to that Forest Area (or part Forest Area), and the Prior Agreement ceases to have effect from the Commencement Date of the relevant Schedules under this Agreement, but without prejudice to any accrued rights and obligations under the Prior Agreement up to the time of termination.

Service Fees For Forestry in the ETS

Fees for applying to add more land into the ETS

Area of land in application:	Cost (excl. GST):	Cost (incl. GST):
Less than 10 ha	\$488.89	\$562.22
From 10 ha and less than 50 ha	\$1,815.00	\$2,087.25
From 50 ha and less than 100 ha	\$1,980.00	\$2,277.00
From 100 ha and less than 500 ha	\$2,640.00	\$3,036.00
500 ha and more	\$4,125.00	\$4,743.75

The annual charge for being registered in the ETS with post-1989 forest land is \$14.90 (excluding GST) per hectare of post-1989 forest land you have in the ETS.

For a full list of fees relating to various activities inc. transferring ETS participation to another party and offsetting the deforestation or removal of forest land please refer to the MPI website or follow this URL: <https://www.mpi.govt.nz/forestry/forestry-in-the-emissions-trading-scheme/ets-forms-fees-and-policies/service-fees-for-forestry-in-the-ets/>

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