

## TERMS OF TRADE – CARBON TRADING

**TRANSACTION NO:** CEQ number as stated on Offer Notice

**DATE:** As specified on Offer Notice

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### 1. INTRODUCTION

**Carbon Trading Business:** Carbon Equities New Zealand Limited (“CEQ” or “we”)

**Carbon Trader:** Susan Mary Harris, Registration No: NZEUR 13451

**Client:** Business, Trust, Individual’s Name or “you”

1.1 This Agreement details the basis upon which CEQ arranges transactions on your behalf in its capacity as a Carbon Trader. Your acceptance of this Agreement shall constitute the formation of a contract between you and CEQ.

1.2 The parties to this broker agreement are CEQ and you.

1.3 References in this Agreement to “we”, “us” or “our” include references to our Affiliates, any director or employee of CEQ or any of its Affiliates.

### 2. OUR SERVICES

2.1 We may provide Domestic Carbon Trading services in New Zealand Carbon Credit instruments known as “NZU” in the New Zealand Emissions Trading Scheme (NZETS) using the New Zealand Emissions Unit Register (NZEUR). These may be traded on a “spot” basis or “forward contract” basis.

2.2 We may also provide International Carbon Trading services in international carbon trading units (ICTU) as specified in this broker agreement. These may be traded on a “spot” basis or “forward contract” basis.

2.3 All dealings with or for you are subject to the rules of the markets, exchanges and associations being used for the trading of your account. When we accept an order from you we will seek to execute it as soon as reasonably practicable in the circumstances.

2.4 All of our services are strictly confidential, with no BUYER or SELLER details released to any party apart from duly authorised regulatory authorities.

2.5 Settlement is by escrow services provided by CEQ.

2.6 Fidelity of carbon credits bought or sold is independently verified by CEQ or their agent prior to recommending a “buy” or “sell” contract to the Client.

2.7 Should the fidelity of the carbon credits bought or sold be altered after the buy or sell transaction occurs by reason of a change of law by government or state, CEQ or their agent accepts no responsibility or liability for that alteration of fidelity.

2.8 Market positions, status and risks are assessed by CEQ prior to providing the Client with a recommendation to “buy”, “sell”, or “hold” a package of carbon credits.

2.9 We provide NZU Transfer of Participation and Mandatory Emission Return services where required by the NZETS to the SELLER as part of the brokerage fee; and to the BUYER as a separate professional services contract.

### **3. SETTLEMENT BY ESCROW**

3.1 Settlement of all transactions is to be agreed in writing (by letter, facsimile, or email) between the two parties “BUYER” and “SELLER” to the transaction. CEQ provides escrow settlement services through two vehicles:

- (a) Carbon credit units held in the CEQ carbon trading escrow account on the NZEUR or other registry; and,
- (b) Purchase funds held in the CEQ carbon trading trust account.

#### **3.2 The Settlement Process is as follows:**

Step 1: A SELLER commissions CEQ to sell a nominated number of NZU (NZU Package) or ICTU (ICTU package) on the spot market or forward market using this broker agreement.

Step 2: NZU’s for sale are defined by their NZEUR number and market type, eg. “March 2017 Spot Market” or “March 2018 Forward Market”. Similarly for ICTU.

Step 3: CEQ, in consultation with the SELLER on price, locates a BUYER for the NZU or ICTU Package at an agreed price satisfactory to the SELLER.

Step 4: The BUYER commissions CEQ to purchase the NZU or ICTU Package on the BUYER’s behalf using this broker agreement.

Step 5a: CEQ sends the BUYER and the SELLER a transaction note and invoice detailing the number of units, registered NZU or ICTU unit numbers, market type, purchase price, and brokerage fees of the NZU or ICTU Package offered by the BUYER.

Step 5b: The BUYER deposits the agreed purchase price into the CEQ escrow trust account.

Step 5c: The SELLER transfers the NZU or ICTU Package into the CEQ Carbon Trading account on the NZEUR or other registry.

Step 6: CEQ's carbon trading staff verify that the correct number of NZU are residing in the CEQ carbon trading account, and that the correct funds have been deposited into the CEQ escrow trust account. Similarly for ICTU on the relevant registry.

Step 7a: CEQ's carbon trading staff transfer the purchase funds to the SELLER's nominated bank account, less brokerage fees, accompanied by a "SELLER'S CONFIRMED TRANSACTION" note sent to the SELLER.

Step 7b: CEQ transfers the NZU Package into the BUYER's NZEUR account, accompanied by a "BUYER'S CONFIRMED TRANSACTION" note sent to the BUYER. Similarly for ICTU on the relevant registry.

3.3 Unless varied in writing by CEQ these steps are intended to be sequential.

#### **4. REGISTRATION OF GREEN TICK®-CERTIFIED CARBON CREDITS**

4.1 Every sale of Green Tick®-certified carbon credits shall be reported by the SELLER to [Green Tick Certification Limited](#) for entry on the Green Tick® Register within three Business days of the sale being concluded.

#### **5. REPRESENTATIONS**

5.1 You represent, warrant and undertake to us that, both at the date of this Agreement and at the time of any transaction we may arrange for you:

(a) You have full power and authority to enter into this Agreement and to instruct us in respect of any transaction and to perform all your obligations hereunder. You have adequate resources to enter into and perform any such transaction which you decide to undertake;

(b) All information you have given to us is true and complete as of the date of this Agreement and at the time of any transaction and any changes to the information given to us will be promptly notified to us;

(c) You acknowledge that you enter into the Agreement as a result of the brokering services provided by us, and that you enter into this Agreement as principal.

## **6. DEALING INSTRUCTIONS**

6.1 You may communicate your dealing instructions to us in writing (by letter, facsimile, or email). Notwithstanding the provisions of section 16.2 (Notices), if you give us instruction in writing, such instructions must be received by us during normal business hours allowing sufficient time for us to act upon them. You agree that acceptance of an instruction to withdraw or amend an existing order is always subject to our receiving the instruction in time for the appropriate action to be taken. You agree that we may in our absolute discretion, refuse to accept an order or any other instruction for your account.

6.2 We shall be entitled to rely on and treat as binding any instructions which we believe to be from you, your agent(s) or an Authorised Representative (whether received by telephone, facsimile, email or in writing) which we have accepted in good faith.

6.3 No liability shall attach to us if an instruction which we have accepted and acted on bona fide basis is subsequently discovered to have been forged, falsified or amended without your authority.

6.4 All telephone conversations which we may have with you (or any third party) will be noted on file and such file notes may be used as evidence in the event of a dispute. Such file notes will be accepted by you as conclusive evidence of instructions received from you.

## **7. REPORTING TO YOU**

7.1 You will notify us immediately upon receipt if you are not in agreement with any trade confirmation or other notification from us. You will be deemed to have received such notification or confirmation at the time of the conversation in respect of verbal notification and in the case of a written notification or confirmation, not more than three (or, in the case of overseas clients, seven) Business Days from the date of despatch. In the absence of such immediate notification by you, the trade confirmation or notification will (in the absence of manifest error) be binding on you.

## **8. OUR CHARGES**

8.1 Unless otherwise agreed our charges will be levied in accordance with rates set out in Schedule One to this Agreement or such other rate as notified to you, verbally or in writing prior to dealing. Any alteration to these charges will be notified to you at or before the time of the change.

## **9. DISCLOSURE**

9.1 You consent to disclosure by us to any relevant regulatory body or authority in New Zealand or elsewhere and to any of our Affiliates of such information relating to services provided to you pursuant to this Agreement.

## **10. LIABILITY**

10.1 We shall not be liable for the taxation consequences of any transaction nor shall we be liable for taxation charges arising for any reason.

10.2 Neither we nor any person connected with us nor any of our agents, nor any director, officer or employee of CEQ shall be under any liability whatsoever for any loss or damage sustained by you as a result of, or in connection with, the services to which this Agreement applies, and the provisions of this Agreement except insofar as to the extent that such loss or damage is caused by negligence or wilful default or failure to comply with all applicable laws.

10.3 You irrevocably and unconditionally agree to indemnify us and our agents on demand and keep us fully and effectively indemnified (whether before or after termination of this Agreement) against any claims, liabilities or expenses of any kind which may be incurred by us as a direct or indirect result of our acting under this Agreement. However, this indemnity shall not apply to any loss or liability to the extent it arises or results from our negligence or wilful default or any contravention by us of any applicable laws.

## **11. ILLEGALITY**

11.1 If any provision or term of this Agreement or any part thereof shall become or be declared illegal, invalid or unenforceable for any reason whatsoever, such term or provision shall be divisible from this Agreement and shall be deemed to be deleted from this Agreement provided always that, if any such deletion substantially affects or alters the commercial basis of this Agreement, we reserve the right to amend and modify the provisions and terms of this Agreement in such fashion as may be necessary or desirable in the circumstances.

## **12. VARIATION**

12.1 We may, from time to time, by written notice to you, make such modifications, amendments and additions to this Agreement as we consider necessary or desirable to comply with any applicable law or the requirements of any governmental or other regulatory body or to comply with the rules of an

exchange or clearing house. All such modifications, amendments or additions shall be effective on a date specified in the notice which will not be less than ten Business Days after provision of the notice, save that amendments or additions required for regulatory purposes shall, if we so determine, have immediate effect.

### **13. ASSIGNMENT**

13.1 You may not assign any of your rights or obligations under this Agreement to any other person. We may assign our rights or obligations to any of our Affiliates or to any person or entity who may acquire the whole or any part of our business or assets.

### **14. ENTIRE AGREEMENT**

14.1 This Agreement constitutes the entire Agreement between us and supersedes any prior agreement relating to the subject matter of this Agreement or any prior declaration or statement we may have made. This Agreement will become effective on the date that it is received and accepted by us.

### **15. TIME OF THE ESSENCE**

15.1 Time shall be of the essence with respect to any payment or other obligation you may have to us under this Agreement.

### **16. TERMINATION**

16.1 You may terminate this Agreement at any time by written notice to us subject to your having no outstanding obligation to us. We may terminate this Agreement at any time by written notice to you. Termination shall not affect your obligation to settle transactions effected by us on your behalf prior to the date of termination and shall not prejudice any right or obligation that may already have arisen.

### **17. NOTICES**

17.1 All notices between us shall be in writing and may be served personally or by fax, email or courier post to the address notified to each other from time to time.

17.2 With the exception of dealing instructions to us (which must be communicated in accordance with paragraph 4.1) notices shall be deemed to have been served three (or, in the case of overseas clients, seven) Business Days after having been posted; or if sent by facsimile or email, one Business Day after transmission.

## **18. PAYMENT**

18.1 All amounts (including without limitation all fees and charges) payable by you shall be paid as set out in Section 3.2 and Schedule One of this agreement.

## **19. CONFLICTS OF INTEREST**

19.1 Your attention is drawn to the fact that when we arrange a transaction for you we, an Affiliate or some other person connected with us may have an interest, relationship or arrangement that is material in relation to the transactions, investments or service concerned and you agree that we shall not be obliged to disclose this to you or to account to you for any profit.

19.2 When we arrange a transaction for you we or one of our Affiliates could for example be:

- (a) dealing as principal for our or its own account by selling the investment concerned to you or buying it from you; or
- (b) matching your transaction with that of another client by acting on his/her behalf as well as yours; or
- (c) making arrangements for transactions on your behalf where an Affiliate has issued research and this Affiliate may also have an own account transaction in the investment concerned.

## **20. FORCE MAJEURE**

20.1 We shall not be in breach of our obligations under this Agreement if there is any total or partial failure of performance of our duties and obligations occasioned by any act of God, fire, act of government or state, war, civil commotion, insurrection, embargo, inability to communicate with market makers for whatever reason, failure of any computer dealing or settlement system, prevention from or hindrance in obtaining any energy or other supplies, labour disputes of whatever nature or late or mistaken delivery or payment by any bank or counterparty or any other reason (whether or not similar in kind to any of the above) beyond our control.

## **21. EXCLUSIVE JURISDICTION**

21.1 You agree that the courts of New Zealand are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement. Nothing contained in this clause shall limit our right to take proceedings against you in any other court of competent jurisdiction.

## **22. GOVERNING LAW**

22.1 The provisions of this Agreement shall be governed by New Zealand Law.

## **23. DEFINITIONS**

23.1 The following defined expressions are used in this Agreement:

"Affiliate" in respect of any party, persons who control, are controlled by or are under common control with such party.

"Authorised Representative" any person whose name shall from time to time have been given to us by you as being authorised to give orders on transactions on your behalf.

"Business Day" any day when investment business is generally conducted in New Zealand.

"Buyer" means a party that wishes to purchase carbon credits.

"Carbon Trader" means Carbon Trader in the NZEUR.

"NZETS" means New Zealand Emissions Trading Scheme.

"NZEUR" means New Zealand Emissions Unit Register.

"NZU" means "units" as defined in the Climate Change Response Act 2002.

"Seller" means a party that wishes to sell carbon credits.

## **24. INTERPRETATION**

24.1 In this document, unless the contrary intention appears:

(a) Reference to any legislation includes any modification or re-enactment of the legislation or any legislative provisions substituted for, and all legislative and statutory instructions and regulations issued under the legislation;



- (b) A singular includes the plural, and vice versa;
- (c) Headings and catchwords are for convenience only, and do not reflect interpretation;
- (d) Where a party to this agreement is more than one person, those persons are jointly and severally liable under the terms of this Agreement;
- (e) A reference to “in writing” includes a facsimile transmission or email communication and any other means of reproducing words in a tangible and permanently visible form;
- (f) A reference to an agreement or document is to the agreement or document as amended, novated, supplemented or replaced from time to time, except to the extent prohibited by this Agreement.

**25. EXECUTION**

**CARBON EQUITIES NEW ZEALAND LIMITED**

*Signature of office holder*

Susan Harris                      *Name*  
 Carbon Trader                    *Office held*  
 13451                                 *NZEUR Registration Number*

**CLIENT** *(tick which applies)*

BUYER                      
 SELLER                  

..... *Signature of office holder*

AAAAA BBBBBB.....*Name*

Manager.....*Office held*

CCCC.....*NZEUR Registration Number*

**Under New Zealand law, instructions via email or telephone may constitute execution.**

## SCHEDULE ONE – FEES \$NZD

**BUYER** \$ fee stated to buyer (incl GST) broker’s fee upon commission.

*(Note: NZETS unit transfer services where required can be provided to the BUYER under a separate professional services contract.)*

**SELLER** Stated to seller % of sale (incl GST) broker’s fee upon commission; when a sale occurs.

*(Note: NZETS unit transfer services where required are included in the above SELLER’s fees.)*

**SCHEDULE TWO – NOTICES**

***Client/You***

Address:

Attention:

Email:

Facsimile No:

Telephone No:

***CARBON EQUITIES NEW ZEALAND LIMITED***

Address: Suite 14285, Level 1, 6 Johnsonville Road, Wellington 6037, New Zealand

Attention: Susan Harris

Email: susan.harris@carbonequities.co.nz

Telephone: +64 9 300 6339

Susan Harris mobile +64 22 1544 958 *or*

Ashley Harris mobile: +64 22 650 2085

Website: [www.carbonequities.co.nz](http://www.carbonequities.co.nz)