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## TOUCAN TERMS OF SERVICE

### **PRIOR TO USING THE PLATFORM, YOU ARE REQUIRED TO READ AND AGREE TO THESE TERMS OF SERVICE.**

These Terms of Service (the “**Terms**”), together with any documents they incorporate by reference, form a legal agreement between you, the user of the Platform (the “**Customer**”, “**you**” or “**your**”), and Toucan (“**Toucan**”, “**we**”, “**us**”, “**our**”), an association incorporated and registered in Switzerland with registration number CHE-381.295.616 and with a registered address at Dammstrasse 16, 6300 Zug, Switzerland (each a **party** and together, the **parties**).

The use of the Platform is subject to the Terms set out herein. We license the use of the Platform to you. Toucan remains the owner of the Platform at all times.

We recommend that you print a copy of these Terms for future use. These Terms are only available in the English language.

#### **Important Notice**

By clicking on the “I Accept these Terms of Service ” Button when using the Platform, you agree to these Terms. Please be aware of clauses 8.17, 14, 17, 22, 23 and 24.

**If you do not agree to these Terms, you may not use the Platform.**

#### **1 Interpretation**

1.1 The definitions and rules of interpretation in this clause 1 apply in these Terms.

**Affiliate:** means, in relation to any person, any subsidiary or holding company of that person and any subsidiary of any such holding company.

**Applicable Laws:** means any international and/or federal, state, national, regional, local and domestic laws, common laws and custom, administrative laws, regulations, rules, zoning laws, orders, interpretations, permits, standards, judgments, decrees, injunctions, writs and orders of any court, governmental body or arbitrator (including relating to any aspect of Article 6) that apply to these Terms, and/or a party.

**Article 6:** means Article 6 of the Paris Agreement as supplemented by Decision 2/CMA.3 and Decision 3/CMA.3.

**Authorized User(s):** means the individual elected by the Customer to use the Platform on behalf of the Customer.

**Blockchain:** means the decentralized ledger technology that enables transactions and records of transactions.

**Blockchain Address:** means a public or private address on a Blockchain in which Digital Assets can be held.

**Business Day:** means a day other than a Saturday, Sunday, or public holiday in Switzerland or the United Kingdom.

**Business Hours:** means the period from 9.00 am to 5.00 pm CEST on any Business Day.

**Carbon Bridge:** means Toucan's software that permits interoperability between a Registry to the Platform to enable (i) VCCs to be Tokenized into TCO2s; and (ii) TCO2s to be Detokenized and redeemed for VCCs.

**Carbon Pool:** means a smart contract on Toucan's Platform into which TCO2s may be deposited by Customers, and which is characterized by filtering criteria that define the attributes that TCO2 as tokens must possess to be eligible for each such pool.

**Carbon Pool Tokens:** means a token that is minted when a compatible TCO2 is deposited into a Carbon Pool. In return, the Carbon Pool Token provides the user with the possibility to redeem any of the underlying TCO2s within such Carbon Pool.

**Carbon Standard:** means, in respect of a VCC, a program or standard administered by a mandatory or voluntary domestic or international greenhouse gas program, certification, scheme or protocol.

**Carbon Standard Rules:** means, in respect of a Carbon Standard, any relevant decisions, guidelines and procedures made pursuant to that Carbon Standard, as in force and amended from time to time.

**CMA:** means the Conference of the Parties serving as the meeting of the parties to the Paris Agreement.

**Confidential Information:** means any non-public information that relates to (i) the Customer's activity on the Platform, or (ii) Toucan's operation of the Platform and the Services.

**Customer:** means you the individual or the entity entering into these Terms with Toucan for the use of the Platform.

**Data Protection Legislation:** means all Applicable Laws and regulations relating to the processing of personal data and privacy including the General Data Protection Regulation 2016/679 (the "**GDPR**") and any statutory instrument, order, rule or regulation made thereunder, as from time to time amended, extended, re-enacted or consolidated and the terms "**personal data**", "**controller**", "**processor**", "**data subject**", "**personal data breach**" and "**processing**" shall have the meanings given to those terms in such data protection laws and regulations. To the extent the United Kingdom GDPR applies this means all applicable data protection and privacy legislation in force from time to time in the United Kingdom including the United Kingdom GDPR; the Data Protection

Act 2018 (DPA 2018) (and regulations made thereunder); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data including, without limitation, the privacy of electronic communications. With regards to Switzerland to the extent the Federal Act on Data Protection of 25 September 2020 applies, the respective rules and regulations are binding.

**Decision 2/CMA.3:** means decision 2/CMA.3 (*Guidance on cooperative approaches referred to in Article 6, paragraph 2 of the Paris Agreement*) and any subsequent relevant decision of the CMA.

**Decision 3/CMA.3:** means decision 3/CMA.3 (*Rules, modalities and procedures for the mechanism established by Article 6, paragraph 4 of the Paris Agreement*) and any subsequent relevant decision of the CMA.

**Deliver:** means (whether used as a verb or a noun) the transfer of VCCs from one Registry Account to another subject to and in accordance with the relevant Carbon Standard Rules and Registry Rules.

**Deposited VCCs:** has the meaning ascribed to it in clause 9.1.

**Detokenization:** means the process of burning a TCO<sub>2</sub> in order to redeem the underlying VCC.

**Digital Asset(s):** means an asset which is recorded on a cryptographically secured distributed ledger or any similar technology, including assets commonly referred to as “cryptocurrencies”, “stablecoins” and “non-fungible tokens”.

**Emission Reduction(s):** means the removal, limitation, reduction, avoidance, sequestration, or mitigation of emissions of GHGs measured in tCO<sub>2</sub>eq from the atmosphere which are capable of being represented in a form of unit of measure pursuant to the relevant Carbon Standard Rules.

**Encumbrance:** means any claim, charge, mortgage, lien, option, equitable right, power of sale, pledge, hypothecation, retention of title, right of pre-emption, right of first refusal or other third party right or security interest of any kind, or an agreement, arrangement, or obligation to create any of the foregoing.

**ESG Claim:** means any claim, statement, or similar by any third party regarding satisfying any compliance, quasi-compliance, or voluntary requirements, laws, rules, guidance, or similar in connection with GHG emissions reductions, climate commitments, carbon neutrality or any other environmental, social and governance commitment of any kind.

**Fees:** means the Fees and charges payable by the Customer to Toucan for the use of the Platform as set out in the Fee Schedule on Toucan’s

website and amended from time to time. This Fee Schedule shall form part of these Terms.

**Fee Schedule:** means the table of Fees set out on our website which may be updated by Toucan from time to time.

**Gas Fees:** has the meaning ascribed to it in clause 15.4.

**GHG:** means any of the following gases: carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs); or sulphur hexafluoride (SF<sub>6</sub>).

**Government Authority:** means (a) a government, whether foreign, federal, state, territorial or local or a department, office or minister of a government acting in that capacity, or (b) a commission, delegate, instrumentality, agency, board, or other government, semi-government, judicial, administrative, monetary or fiscal body, department, tribunal, entity or authority, whether statutory or not, and includes any self-regulatory organization established under statute or any stock exchange.

**Intellectual Property Rights:** means patents, utility models, rights to inventions, copyright and related rights, trademarks and service marks, trade names and domain names, rights in get-up, goodwill, and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights.

**Omnibus Account:** means a Registry Account in our name on the Registry in which Delivered VCCs are capable of being held, tokenized, detokenized, transferred, acquired, retired, or canceled.

**Paris Agreement:** means the agreement under the United Nations Framework Convention on Climate Change which entered into force on 4 November 2016 with the aim of achieving GHG emissions mitigations, adapting to the effects of climate change and driving climate finance.

**Platform:** means the Toucan environment including all TCO<sub>2</sub>s and NFTs; any Carbon Bridge, any Carbon Pool, our app; and all corresponding smart contracts. For the avoidance of doubt, our Platform does not include liquidity pools, centralized, or decentralized Digital Asset exchanges that may be Third Party Resources, or any software development kit used by Toucan.

**Registry:** means, in respect of a VCC, the electronic database system that is established or operated by the relevant Carbon Standard or on its behalf including for the holding, transfer, acquisition, retirement, and cancellation of that VCC.

**Registry Account:** means any digital record of a person in the relevant Registry that is eligible to record the holding, transfer, acquisition, retirement, or cancellation of VCCs.

**Registry Rules:** means any relevant decisions, guidelines and procedures made in connection with the operation of the relevant Registry, as in force and amended from time to time.

**Retirement:** means to permanently remove a VCC from circulation in the relevant Registry, pursuant to the relevant Registry Rules and the relevant Carbon Standard Rules.

**Sanction(s):** means any economic or financial sanctions or trade embargoes imposed, enacted, administered or enforced from time to time by any Government Authority.

**Services:** means any services that Toucan provides on the Platform to the Customer in accordance with these Terms which shall include the use of the Platform and the services identified in clause 4.

**Taxation:** means all forms of taxation (other than deferred tax) and statutory, governmental, state, provincial, local governmental or municipal duties, contributions, rates and levies, in each case in the nature of tax, whether levied by reference to income, profits, gains, net wealth, asset values, turnover, added value or otherwise and shall further include payments to a tax authority on account of tax, whenever and wherever imposed and whether chargeable directly or primarily against or attributable directly or primarily to the party or any other person and all penalties and interest relating thereto.

**TCO2:** a project and vintage-specific Digital Asset, representing one VCC.

**tCO2eq:** means tonne of carbon dioxide equivalent.

**Third Party Agreements:** has meaning ascribed to it in clause 4.3

**Third Party Resources:** has the meaning ascribed to it in clause 4.4.

**Tokenization:** means the process of minting a TCO2 to represent an underlying VCC that has been locked in the source Registry.

**Transaction ID:** means a unique string of numbers and letters unique to each verified transaction on a Blockchain.

**Verified Carbon Credit or VCC:** means a unit measured in tCO2eq, representing an Emission Reduction that has been quantified, verified and issued into a Registry Account with a unique serial number.

**Wallet:** means your third party digital wallet which enables the storage of Digital Assets and which you are required to have in order to hold your TCO2s and Carbon Pool Tokens and to engage in transactions.

**Wallet Address:** means the public character string uniquely identifying your blockchain wallet.

**Website:** means the Toucan website at <https://toucan.earth/>.

1.2 Unless expressly provided otherwise in these Terms:

- (a) a reference to legislation or a legislative provision is a reference to it as amended, extended, or re-enacted from time to time;
- (b) a reference to a document is a reference to that document as modified or replaced from time to time;
- (c) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- (e) any words following the terms including, include, in particular, for example or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (f) a reference to writing or written shall include reference to email;
- (g) clause, schedule and paragraph headings shall not affect the interpretation of these terms;
- (h) a “person” shall be construed as a reference to any person, firm, company, joint venture corporation, government, state or agency of a state or any association, or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- (i) a person includes the person’s legal personal representative, successors, assignees or novatees;
- (j) a reference to a company shall include any corporation, body corporate or company, where incorporated and however established; and
- (k) unless the context otherwise requires, defined terms shall be interpreted so as to be consistent with any relevant concept or definition in the Carbon Standard pursuant to which a VCC the subject of these Terms are quantified, verified and issued.

## **2 Eligible Users**

- 2.1 To use the Platform, you are required to be at least eighteen years of age or have reached the age of majority in the country in which you are resident. We may restrict features of the Platform at our sole discretion and in accordance with Applicable Laws.
- 2.2 If you are a business using this Platform, you are required to be validly incorporated in the country in which you undertake your

business and the person entering into these Terms on your behalf must be a director of your business. This director may designate an Authorized User(s) to use the Platform on behalf of the company.

- 2.3 We shall deem an instruction given by your Authorized User as an instruction given by you.
- 2.4 Your Authorized User may only use the Platform in accordance with the Terms set out herein.
- 2.5 By using the Platform, you represent and warrant that:
  - (a) you are not located or ordinarily resident in, or subject to the laws of any jurisdiction that is subject to an embargo or Sanction by a United States Government Authority;
  - (b) you are not under any Sanctions from an agency of the United States Government, the Government of the United Kingdom, any other government or the United Nations;
  - (c) in the event you are a company, that your entity is not owned or controlled whether directly or indirectly by any person that is under Sanctions; and
  - (d) in the event that you are a company, your entity is not located under the laws of any jurisdiction subject to embargoes or Sanctions.
- 2.6 We may request that you provide additional information and documents in accordance with the request of any Government Authority or to investigate a breach of these Terms.
- 2.7 In our sole discretion, we may prevent you from using the Platform until such additional information and documents are provided and processed by us.
- 2.8 Should you fail to provide the additional information requested by us, we may refuse to allow you to use of the Platform.
- 2.9 Your use of the Platform may be interrupted or disabled from time to time due to maintenance, Platform updates, Platform repair, location restrictions or other actions that we may take in our sole discretion.

### **3 Wallet**

- 3.1 You must have your own third party Wallet in order to participate in any transactions on the Platform. We shall not have control or custody over the contents of your Wallet.
- 3.2 We are not and do not operate as a Wallet provider.
- 3.3 Through your use of your Wallet on the Platform, you confirm and agree that your use of your Wallet is in accordance with the terms and conditions of the Wallet provider.

- 3.4 We accept no responsibility or liability to you in connection with your use of the Wallet and Platform.
- 3.5 We make no representations or warranties in relation to the operation of the Platform with any specific Wallet.
- 3.6 You are solely responsible in relation to any use of your Wallet on the Platform and for the security of your Wallet as well as for the transfer of your Digital Assets to/from your Wallet. You are solely responsible for securing your Wallet.
- 3.7 In the event that you encounter an issue with your Wallet, please contact your Wallet provider.

#### **4 Services**

- 4.1 We offer the following Services on the Platform:
  - (a) Tokenization of VCCs into TCO2s;
  - (b) Detokenization (burning) of TCO2s;
  - (c) deposit of TCO2s into Carbon Pools;
  - (d) redemption of TCO2s from Carbon Pools by the destruction of Carbon Pool Tokens; and
  - (e) Retirement of VCCs by way of retiring and burning of the corresponding TCO2s.
- 4.2 In our sole discretion we may add to, adjust, modify, or remove these Services with reasonable prior notice to you.
- 4.3 When you use the Services on the Platform, you may also be using the content, services and products of third parties. Your use of such third party content, services and products may be subject to separate agreements, policies, terms of use and fees ("**Third Party Agreements**"). You agree to abide by and be responsible for any applicable Third Party Agreements and comply with any applicable terms and conditions.
- 4.4 The Platform may contain references or links to third party resources, including websites, content, applications, platforms, products or services (such as exchanges) that we do not own or control ("**Third Party Resources**"). If you use any Third Party Resources, you do so at your own risk. You understand that in no event shall we be liable for any direct or indirect losses caused by your use of Third Party Resources.
- 4.5 Where we provide links to these Third Party Resources, we do not review, endorse, recommend, make representations or warranties in relation to these Third Party Resources or any services or products contained therein.



- 4.6 The use of the Platform is restricted to the Services set out in this clause 4.

## **5 License to Use the Platform**

- 5.1 Toucan grants you a limited, non-exclusive, non-transferable, non-sublicensable and personal license to use the Platform solely in accordance with the Terms set out herein.
- 5.2 Use of the Platform is at your own risk. You remain responsible for your use of the Platform and the Services.

## **6 Disclaimer and key risks**

- 6.1 By using our Platform, you represent that you are financially and technically sophisticated enough to understand the inherent risks associated with using Blockchain technology, and that you have a working knowledge of the usage and intricacies of Digital Assets.
- 6.2 You acknowledge and agree that the risks related to a Blockchain (in addition to any separate risks that may arise from a Blockchain that is open-source software), includes:
- (a) the existence of technical flaws in the technology;
  - (b) targeting by malicious persons;
  - (c) mining attacks;
  - (d) changes in the consensus protocol or algorithms;
  - (e) decreased community or miner support;
  - (f) the existence or development of competing networks, platforms and assets;
  - (g) disputes between stakeholders such as developers, miners and users; and
  - (h) regulatory action by a Government Authority.
- 6.3 You acknowledge and agree that Digital Assets are not legal tender and may not constitute “property” under the laws of any jurisdiction. Digital Assets are considered a high-risk asset class. You should exercise caution in relation to your dealing with Digital Assets. In particular, you agree that the markets for these Digital Assets (including TCO2s and Carbon Pool Tokens) may be highly unpredictable, and your participation in such markets may cause you loss.
- 6.4 You acknowledge and agree that your Digital Assets that are stolen, lost or otherwise inaccessible to you may be irretrievable. Once a transaction to remove a Digital Asset from your Wallet has been

verified and recorded on the relevant Blockchain you will not be able to retrieve that Digital Asset.

## **7 Verification**

- 7.1 We may request your compliance with know-your-customer and anti-money laundering procedures from time to time. In the event you fail to comply with such procedures, this may be considered a breach of these Terms in accordance with clause 8.1.
- 7.2 You or your Authorized User may be required to participate in an enhanced verification procedure where we may request additional information from you.
- 7.3 In providing us with this verification information, you confirm that such information is true, accurate and complete. You acknowledge and confirm that you have not withheld any information that has been reasonably requested by us.
- 7.4 In the event that changes occur which may affect the accuracy of the information provided by you to us which may cause such information to become false, inaccurate or incomplete, you are required to promptly notify us by email in accordance with clause 34.
- 7.5 You acknowledge that we may keep records of the information provided by you. This shall be in accordance with clause 13.

## **8 Prohibited use of the Platform**

- 8.1 A core value of Toucan is the adherence to transparency and openness. However, to protect the Platform and to comply with our legal obligations, we reserve the right to suspend or terminate your use of the Platform with prior notice in the event you have committed a serious breach of these Terms or that you are using the Platform for unlawful activity.
- 8.2 You shall not conduct, facilitate, authorize, or permit any text or data mining or web scraping in relation to the Platform, or any Services provided via, or in relation to, the Platform. This includes using (or permitting, authorizing or attempting the use of):
  - (a) any "robot", "bot", "spider", "scraper" or other automated device, program, tool, algorithm, code, process or methodology to use, obtain, copy, monitor or republish any portion of the Platform, or any data, content, information or Services accessed via the same;
  - (b) any manual or automated software to scrape or crawl the Platform; or
  - (c) any automated analytical technique aimed at analyzing text and data in digital form to generate information which includes patterns, trends and correlations.

- 8.3 Clause 8.2 should be treated as an express reservation of our rights in this regard.
- 8.4 Clause 8.2 shall not apply insofar as (but only to the extent that) we are unable to exclude or limit text or data mining or web scraping activity by contract in accordance with Applicable Laws.
- 8.5 By continuing to view or make use of this Platform, and any related content and services, you hereby warrant and represent to us that you are located in a jurisdiction in which such viewing or use of the Platform is permitted.
- 8.6 You shall not edit or otherwise modify any material on the Platform in any way that causes or may cause the Platform to be impaired or damaged.
- 8.7 You shall not breach any Intellectual Property Rights set out in clause 16 – including removal of a trademark, copyright, or other intellectual property notices.
- 8.8 You shall not use or attempt to use any software, routine or device or attempt to interfere electronically or manually with the operating system of the Platform including making available files that contain viruses or corrupt data.
- 8.9 You shall not attempt to or simulate the appearance of function of the Platform.
- 8.10 You shall not attempt to take actions that impose large loads on the Platform.
- 8.11 You agree that you will not translate, merge, adapt, vary, alter, or modify any part or the whole of the Platform.
- 8.12 You agree that you will not disassemble, de-compile, reverse engineer or create derivative works on any part or the whole of the Platform except where prior written permission is given by us.
- 8.13 You agree that you will comply with any Applicable Laws in your use of the Platform.
- 8.14 You agree that you will not use the Platform in an unlawful manner, for any unlawful purpose or in any manner that is contrary to the Terms set out herein.
- 8.15 You agree that in your use of the Platform, you will not act fraudulently or maliciously by hacking into or inserting malicious code such as viruses, malware or any other harmful data.
- 8.16 You agree that you will not use the Platform in any way that could damage, disable, overburden, impair or compromise our systems, security or interfere with other users.

- 8.17 You agree that in your use of the Platform you will not collect or harvest any information or data from our systems or attempt to decipher any transmissions to or from the servers.

## 9 Custody

- 9.1 To use some of the Services you shall be required to deposit VCCs into an Omnibus Account from your Registry Account (“**Deposited VCCs**”). You acknowledge and agree that we do not have custody or control over the contents of your Registry Account and have no ability to hold, transfer, acquire, retire, or cancel the VCCs in your Registry Account.
- 9.2 You acknowledge and agree that you have custody or control over the contents of your Registry Account and that you have the ability to hold, transfer, acquire, retire or cancel the VCCs in your Registry Account.
- 9.3 You acknowledge and agree that in order to receive specific Services, including the Services identified in clauses 4.1(a) and 4.1(b), the Registry may require you to take specific actions to Deliver VCCs into an Omnibus Account, If you do not take these actions, then the relevant VCCs cannot be Deposited VCCs.
- 9.4 You acknowledge and agree that only we, as the operator of the Omnibus Account, can approve transfer and Retirement transactions on the Deposited VCCs. You acknowledge and agree that we shall have control and custody over your Deposited VCCs in our Omnibus Account.
- 9.5 VCCs shall only be considered Delivered and therefore constitute Deposited VCCs after any and all network confirmations, as determined by us in our sole and absolute discretion, have occurred with the Registry for such VCCs.
- 9.6 We shall retain information as reasonably necessary to operate the Omnibus Account.
- 9.7 You acknowledge that we do not keep independent information in relation to your Registry Account. These records are kept on the Registry.
- 9.8 We shall not sell, transfer, or otherwise Encumber or dispose of any of your Deposited VCCs in our Omnibus Account, other than in accordance with these Terms and the Registry rules.
- 9.9 For the purposes of protecting your rights, title, and interest in the Deposited VCCs, we may assign or deal with our rights, title and interest to the Sales Channel to a corporate entity related to us that shall act on a custodial basis.
- 9.10 TCO2s are minted directly into the provided Wallet.

- 9.11 For you to redeem Deposited VCCs you must request Detokenization of the corresponding TCO2s. Upon the Detokenization of those TCO2s the corresponding Deposited VCCs inside of the Omnibus Account will be Delivered to your Registry Account as soon as reasonably practicable.
- 9.12 The ownership of a TCO2 provides you as the Customer the right to redeem the corresponding Deposited VCC back into your Registry account.
- 9.13 We agree to take reasonable care and use commercially reasonable efforts in executing our responsibilities to you under this clause 9, or such higher care where required by Applicable Laws.

## **10 Retirement**

- 10.1 The Platform enables you to retire TCO2s from circulation and this will cause the Retirement of the corresponding Deposited VCCs. This Retirement will be visible in the corresponding registry.
- 10.2 You are required to submit a request for the whole or any part of the TCO2 you want to retire. TCO2s shall be retired under your name as an individual or the name of your business. You may also retire on behalf of another party.
- 10.3 A Retirement may be subject to additional Fees as set out in the Fee Schedule on our website.
- 10.4 These Fees are subject to change and may be updated by us from time to time on our Fee Schedule. We will aim to provide you with reasonable advance notice of any Fee changes.
- 10.5 Retirement may be subject to additional verification procedures which may include know your customer procedures and anti-money laundering procedures or any such procedures that we are required to conduct in accordance with Applicable Laws.

## **11 Audit**

- 11.1 You shall permit us or Toucan's designated auditor to audit your use of the Platform and the Services to establish compliance with these Terms. An audit may be conducted where in our sole discretion it is deemed to be reasonably necessary. The audit will be at our expense and shall be conducted with reasonable prior notice in accordance with clause 34, in such a way as to not reasonably interfere with the normal conduct of your use of the Platform.
- 11.2 In the event you are a business using this platform, should the audit in this clause 11 show that use of the Platform has been provided to a person who is not an Authorized User designated by you, then you are required to disable the use of the Platform to that person and we may disable use of the Platform to that person.

## **12 Provision of the Platform and the Services**

- 12.1 Subject to payment of the Fees set out on <https://docs.toucan.earth>, we shall provide the Platform and Services to you subject to the Terms set out herein.
- 12.2 Before conducting any transaction, you confirm you have obtained details of all commissions, Fees and costs for which you will be liable.
- 12.3 We shall as part of the provision of the Platform and at no additional cost to you, provide you with customer support services relating to your use of the Platform and/or the Services during Business Hours.
- 12.4 We shall not provide customer support services relating to any hardware wallets, hardware, external platforms, third party platforms, or any software used in connection with the Platform or services available therein.
- 12.5 We may conduct maintenance on the Platform from time to time. We shall use reasonable endeavors to ensure that the maintenance does not adversely affect the function of the Platform or Services.

### **13 Data Protection**

- 13.1 You acknowledge that we may process your personal data in connection with your use of the Platform and with these Terms, Toucan's privacy policy, and any terms and conditions applicable to our website.
- 13.2 Toucan's privacy policy is available here: <https://toucan.earth/privacy-policy/>.
- 13.3 You shall own all rights, title, and interest in your data and shall have sole responsibility for the legality, reliability, integrity, accuracy, and quality of all your data.
- 13.4 Both parties shall comply with all applicable requirements of the Data Protection Legislation. This clause 13 does not relieve either party of that party's obligations under the Data Protection Legislation.

### **14 Customer's obligations**

- 14.1 The Platform and the Services shall be made available for use solely by the Customer in accordance with these Terms and Applicable Laws. You shall obtain and maintain any necessary licenses, consents, or permissions necessary to maintain Verified Carbon Credits or Digital Assets on the Platform.

- 14.2 You and any Authorized Users are solely responsible for procuring, maintaining, securing your network access and network connections from your systems to the Platform.

## **15 Fees and payment**

- 15.1 You acknowledge and agree that you are responsible for the payment of all Fees in accordance with your use of the Platform.
- 15.2 The relevant Fees are set out in the Fee Schedule on our website and updated from time to time.
- 15.3 We may change the Fees and the Fee Schedule at any time. Changes to our Fee Schedule are effective as of the effective date shown on the Fee Schedule, and changes will apply prospectively to your use of the Services. We will provide you with reasonable prior notice of changes to our Fees and Fee Schedule.
- 15.4 Blockchain transactions may require the payment of transaction fees to the appropriate network ("**Gas Fees**"). Your use of the Services may also incur third party fees, such as Gas Fees. You are solely responsible for paying all such third party fees. You acknowledge and agree that the cost of transacting with Blockchain-based systems is variable and may increase dramatically at any time.

## **16 Intellectual Property Rights**

- 16.1 You acknowledge that all Intellectual Property Rights in the Platform and any Services provided herein belong to and shall belong to Toucan, and you shall have no Intellectual Property Rights to the Platform or the Services except as provided in accordance with these Terms.
- 16.2 All content available on the Platform such as text, graphics, logos, trademarks, images, icons, downloads, data and software are the property of Toucan and is protected by international copyright and intellectual property law.
- 16.3 Any other use of the Platform not set out in these Terms is prohibited. All other rights, title and interest in the Platform are the exclusive property of Toucan.

## **17 No Encumbrance**

- 17.1 You may not Encumber any VCCs, Digital Assets or the subject of these Terms unless you have our express permission.

## **18 Taxes**

- 18.1 It is your responsibility to determine any Taxes arising from your (and your Authorized User's) use of the Services and/or the Platform.

- 18.2 You are solely responsible for paying any applicable Taxes from transactions.
- 18.3 We may withhold or add applicable taxes to your transactions to the extent that we are required to do so under Applicable Law.
- 18.4 You are recommended to conduct your own due diligence and to speak to your own tax advisors prior to making any decisions or transactions in relation to VCCs and/or Digital Assets on the Platform.

## **19 Sanctions**

- 19.1 Your use of the Platform is subject to Applicable Laws including export restrictions, Sanctions, anti-terrorism Sanctions and end-user restrictions. By using the Platform and the Services you agree to comply with all Applicable Laws relating to Sanctions.
- 19.2 You may not use the Services if doing so would directly or indirectly violate any Applicable Laws which include those promulgated by the United Nations Security Council (UN), the United States Treasury Office of Foreign Assets Control, the European Union (EU), Switzerland, the United Kingdom, and/or any other Applicable Laws.
- 19.3 You acknowledge and agree to hold Toucan harmless for any damages or losses caused by delays or refusals to process a Tokenization or Detokenization request (or any other Service) that results from Toucan's compliance obligations with any Applicable Laws, including applicable embargoes, applicable Sanctions, or controls.

## **20 Transaction limits**

- 20.1 We may impose transaction limits on your use of the Platform. These transaction limits will be set out in the Fee Schedule available on the website which is updated from time to time.
- 20.2 When an instruction or transaction has occurred on the Platform, we are entitled to assume that you have authorized the instruction or transaction.
- 20.3 You are required to check your third party Wallet and the Platform regularly to view your transaction history.
- 20.4 We are not responsible for any transactions made by you on the Platform.

## **21 Confidentiality**

- 21.1 If you are provided with a user identification code, password, or any other piece of information as part of our security procedures, you must treat such information as confidential. You must not disclose such security related information to any third party except in accordance with these Terms. If you know or suspect that anyone other than you is aware of or knows your security related



information, you must promptly notify us by email in accordance with clause 34.

- 21.2 If you receive information from another user of the Platform through the Services, you must keep that information confidential and only use it in connection with the Services. You may not disclose or distribute another user's information to a third party or use the information except as reasonably necessary to enact a transaction on the Platform and other functions in relation to support, trading, reconciliation, and accounting unless you have been provided with the user's express consent to do so. You may not send unsolicited communications to other users of the Platform.
- 21.3 Each party shall keep the other party's Confidential Information secret and confidential and shall not:
- (a) use such Confidential Information except for the purpose of exercising or performing its rights and obligations in connection with these Terms;
  - (b) disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause 21;
  - (c) a party may disclose the other party's Confidential Information to those of its representatives who need to know such Confidential Information, provided that:
    - i) it informs such representatives of the confidential nature of the Confidential Information before disclosure;
    - ii) it procures that its representatives shall, in relation to any Confidential Information disclosed to them, comply with the obligations set out in this clause 21 as if they were a party to these Terms; and
    - iii) and at all times, it is liable for the failure of any representatives to comply with the obligations set out in this clause 21.
- 21.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any Government Authority or other regulatory authority including any relevant securities exchanges or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible.
- 21.5 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in this clause 21 are granted to the other party, or to be implied in these Terms. Except as expressly stated in these Terms, no party makes any express or implied warranty or representation concerning its Confidential Information.

21.6 The provisions of this clause 21 shall continue to apply after termination of these Terms for a period of two (2) years.

## **22 Indemnity**

22.1 You shall defend, indemnify and hold harmless Toucan, its Affiliates, employees, service providers, respective officers, directors, agents and representatives against all claims, proceedings, losses, damages, expenses and costs (including legal fees and court fees) arising out of or in connection with your use of the Platform and transactions occurring on the Platform including into or out of any Carbon Pool.

22.2 You agree to indemnify Toucan, its Affiliates, service providers, employees, officers, directors, agents, joint ventures and representatives for any costs (including legal fees, fines, penalties) that have arisen in connection with any claims, demands, losses or damages pursuant to your use of the Platform or arising out of or related to a breach by you of these Terms or your violation of any Applicable Laws.

## **23 Liability**

23.1 Should you incur a dispute with other user(s) of the Platform, you agree that neither Toucan, its Affiliates, service providers, employees, officers, directors, agents, joint venturers and representatives shall be liable for any claims, demands, losses or damages of any kind arising out of the dispute.

23.2 Toucan shall not be liable for the following:

- (a) loss of profits, sales, business or revenue; or
- (b) loss of business, loss of business opportunity, depletion of goodwill and/or similar losses; or
- (c) any loss of hardware or software; or
- (d) any loss of waste of overheads, management, staff time, anticipated savings; or
- (e) any loss of anticipated trading profits or any actual or hypothetical trading losses, whether direct or indirect; or
- (f) business interruption; or
- (g) loss of anticipated savings; or
- (h) loss or corruption of data or information; or
- (i) pure economic loss; or
- (j) for any special, indirect or consequential loss, costs, damages, charges or expenses however arising in connection with the Customers use of the Platform or under these Terms.

23.3 Toucan's total aggregate liability to you for any individual claim or connected claims for losses, costs, liabilities, expenses or damages which you may suffer from or in connection with, a breach by

Toucan of these Terms shall be limited to the Fees collected by Toucan from your use of the Platform.

- 23.4 These Terms set out the full extent of the parties' obligations and liabilities as between each other arising out of or in connection with these Terms and the Platform, and there are no conditions, warranties, representations, or terms, express or implied, that are binding on the parties except as specifically stated in these Terms. Any condition, warranty, representation, or other term which might otherwise be implied into or incorporated in these Terms, whether by statute, common law or otherwise, is hereby expressly excluded.
- 23.5 Nothing in these Terms shall limit Toucan's liability resulting from fraud, fraudulent misrepresentation, deliberate misconduct, gross negligence, death or personal injury.
- 23.6 Without limiting clause 23.3, in no event shall Toucan be liable to you for any losses, claims, expenses or damages arising out of or relating to your use of, or statements regarding, the VCCs, including claims arising out of or relating to ESG Claims. Toucan makes no guarantee that, by purchasing the VCCs or any Digital Assets or using the Platform or Services, you or any other party will be in compliance with any Applicable Laws, including those relating to mandatory or voluntary GHG Emission Reductions programs, climate commitments, carbon neutrality or any other environmental, social and governance commitment of any kind, and under no circumstances shall Toucan or any other party have any liability to you with respect to the foregoing.

## **24 Suspension and Termination**

- 24.1 We may suspend, restrict or terminate your use of the Platform. We will make commercially reasonable efforts to provide you with advance notice of this suspension, restriction, or termination to your Platform use.
- 24.2 You acknowledge that this decision to terminate or suspend may be based on confidential criteria in relation to our risk management and security protocols. You acknowledge and agree that we have no obligation to provide you with details of our risk management and security protocols.
- 24.3 In the event that we lift a suspension, we are under no obligation to enable you to complete a transaction at the same price or in accordance with the same Terms as applicable at your time of suspension.
- 24.4 We may limit the functionality of the Platform or your use of the Platform during a suspension period.
- 24.5 In our sole discretion we may add you to a blocklist to prevent your Wallet Address from interacting with the Platform.

24.6 In our sole discretion we may limit certain behaviors on the Platform, this may include bonding through the staking of your own node.

24.7 We may terminate your use of the Platform in the event:

- (a) you commit a material breach of any term or condition of these Terms or you fail to perform any obligation or responsibilities hereunder;
- (b) you are the subject of any voluntary or involuntary bankruptcy, insolvency application, resolution, petition, proceeding, receivership, or similar action;
- (c) there is a liquidation of your business;
- (d) there is a material change in the regulatory status of your business, or your business has been notified that it is the subject of an investigation or enforcement action by a regulator or by law enforcement in any jurisdiction;
- (e) you are struck off the register of companies or any action occurs which could result in strike off arising, or anything analogous occurs, in any jurisdiction;
- (h) an encumbrancer takes possession, or a receiver is appointed over your assets;
- (i) a petition is presented or an order is made or a resolution passed or any analogous proceedings or action is taken for the appointment of an examiner, administrator, administrative receiver, receiver, trustee, or any similar officer over your assets;
- (j) you commit any fraudulent act or any criminal activity in your use of the Platform.

## **25 Warranties**

25.1 The Platform is provided on an “as-is” basis. We make no further warranties in relation to availability of the Services on the Platform.

25.2 We do not give any warranty that the use of the Platform, the Platform Services or any of the materials on the Platform will be uninterrupted or error free.

25.3 All use of the Platform and the Services contained therein is at your own risk.

25.4 Any materials, estimates or information on the Platform are made available by us for informational purposes only and may be changed by us without notice to you.

25.5 You are required to make your own assessment as to the accuracy and reliability of the information provided on the Platform. You are recommended to obtain your own financial, legal, regulatory and tax advice prior to making any transaction.

- 25.6 No warranty is given by us and no liability is accepted by us for any arising loss or damages by you acting directly or indirectly as a result of the information provided on the Platform.
- 25.7 The Platform is not intended nor built to provide investment, tax, or legal advice or to make recommendations about your Verified Carbon Credit and/or Digital Asset investments or products available for particular investors.
- 25.8 You undertake to comply with all Applicable Laws in your use of the Platform.

## **26 Force majeure**

- 26.1 We shall not be liable to you under these Terms in the event we are prevented from or delayed in performing our obligations under these Terms, or from providing the Platform and the Services contained within by acts, events, omissions or accidents beyond our reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Toucan or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, pandemic, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of server, server malfunction, power outage, fire, flood, storm provided that you are notified of such an event (which may be by a general notice).

## **27 Variation**

- 27.1 We may amend these Terms at any time with prior notice to you in accordance with clause 34.
- 27.2 Your continued use of the Platform shall be deemed to constitute acceptance of these Terms as varied. If you do not wish to accept the Terms (as varied), you must immediately cease using the Platform and the Services.
- 27.3 These amended Terms shall be effective as of time it is posted on the website or otherwise notified under clause 34.3. These amended Terms shall not apply retroactively.
- 27.4 You acknowledge and agree that any notification of amendments to these Terms in accordance with clause 27.3 shall be construed as an acknowledgement by you of the amendment(s) and shall be your acceptance of the amended Terms.
- 27.5 A copy of the up-to-date Terms will be available on our website at all times.

## **28 Dispute Resolution**

- 28.1 The parties shall attempt to resolve any dispute or difference arising out of or relating to these Terms through the Toucan complaints procedure: <https://toucan.earth/disclaimer/>.
- 28.2 Should the dispute not be resolved in accordance with Toucan's complaint's procedure, the dispute shall be referred to and finally resolved by arbitration under the provisions of the Arbitration Act 1996 and any statutory modifications arising.
- 28.3 The tribunal shall contain one arbitrator. The dispute may be referred to arbitration by either party. The seat of the arbitration shall be London, England. The law governing this arbitration shall be the law of England and Wales. The language of the arbitration shall be English.
- 28.4 Both parties shall advance their costs of arbitration in equal shares. The successful party may be awarded fees and costs by the arbitrator.
- 28.5 The award of the arbitrator shall be final and binding on the parties and may be enforced in any court of competent jurisdiction.

## **29 Waiver**

- 29.1 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 29.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

## **30 Rights and remedies**

- 30.1 Except as expressly provided in these Terms, the rights and remedies provided under these Terms are in addition to, and not exclusive of, any rights or remedies provided by law.

## **31 Severance**

- 31.1 If any provision or part-provision of these Terms is or becomes invalid, illegal or unenforceable, it shall be deemed deleted but that shall not affect the validity and enforceability of the rest of these Terms.
- 31.2 If any provision or part-provision of these Terms is deemed deleted, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **32 Entirety of these Terms.**

- 32.1 These Terms, and the documents referred to in them, constitute the entire agreement between the parties in relation to the subject

matter of these Terms and supersede any prior Terms in respect of the same.

- 32.2 Each party acknowledges that in entering into these Terms it does not rely on any statement, representation, assurance, or warranty (whether made innocently or negligently) that is not set out in these Terms. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in these Terms.

### **33 Assignment**

- 33.1 You shall not, without our prior written consent assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over, otherwise Encumber or deal in any other manner with any of your rights or obligations under these Terms.
- 33.2 We may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of our rights and obligations under these Terms.

### **34 Notices**

- 34.1 Any notice required to be given under these Terms by you shall be in writing and shall be sent by email to legal@toucan.earth or by first-class post to Toucan Protocol Association, Dammstrasse 16, 6300 Zug, Switzerland.
- 34.2 A notice transmitted by email shall be deemed to have been received at the time of the transmission. A notice by first-class post shall be deemed to have been received on the next Business Day after sending.
- 34.3 We may provide any notice to you under these Terms using commercially reasonable means, including using public communication channels. For the avoidance of doubt, “public communication channels” includes the Platform and Toucan social media accounts. Notices provided by using public communication channels will be effective upon posting.

### **35 Partnership or Agency.**

- 35.1 Nothing in these Terms is intended to or shall operate to create a partnership between the parties, or authorize either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

### **36 Governing Law and Jurisdiction.**

- 36.1 These Terms and any dispute or claim arising out of or in connection with these Terms or their subject matter or formation

(including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England.

**37 Third party rights**

- 37.1 These Terms do not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of these Terms.
- 37.2 The rights of the parties to rescind or vary these Terms are not subject to the consent of any other person.

**38 Survival**

- 38.1 Any provision of these Terms that expressly or by implication is intended to come into or continue in force on or after termination of these Terms shall remain in full force and effect.
- 38.2 Termination of these Terms shall not affect any rights, remedies, obligations, or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of these Terms which existed at or before the date of termination.