

Participant Terms and Conditions

These RMS Participant Terms and Conditions (these “*RMS Participant Terms*”) are a binding agreement made and entered into as of Acceptance Date (as defined below), by and between Green Blue Institute, Inc., a Delaware non-profit corporation having its principal place of business at 600 East Water Street, Suite C, Charlottesville, Virginia 22902 (“*GreenBlue*”), and the company or other organization agreeing to these RMS Participant Terms (“*Participant*”). These RMS Participant Terms are a legally binding agreement between GreenBlue and Participant. In consideration of the mutual promises and covenants set forth herein and for other good and valuable consideration, the receipt, sufficiency and adequacy of which are mutually acknowledged by each party, the parties hereto agree as follows:

1. Recitals

Each of the parties hereto recites, affirms, and agrees as follows:

- 1.1.** GreenBlue has developed a standard known as the Recycled Material Standard that provides clear rules, definitions, and guidelines for advancing the use of recycled materials, as set forth in the RMS Framework (as defined below) and each RMS Material Module (as defined below).
- 1.2.** GreenBlue has developed a voluntary program (the “*RMS Program*”) for organizations (i) to obtain a certification (each, an “*RMS Certification*”, collectively, “*RMS Certifications*”) of the organizations’ compliance with the Recycled Material Standard through accredited third-party Certification Bodies (as defined below) and to be listed a searchable, public database (the “*RMS Certificate Database*”), and (ii) to use and display certain RMS Labels (as defined below). Transparency and accountability are core aspects of the RMS Program, and all companies that participate in the RMS Program will be listed in the RMS Certificate Database.
- 1.3.** GreenBlue has defined a new environmental commodity referred to as Attributes of Recycled Content certificates and has created a system and registry (the “*ARC Registry*”) for the generation, trading, and retirement of ARCs (as defined below). Certified Participants will have the option to participate in the ARC Registry, subject to the applicable ARC Registry terms and conditions and payment of the applicable fees.
- 1.4.** Participant desires, pursuant to these RMS Participant Terms, to participate in the RMS Program and to become a Certified Participant.

2. Definitions

As used in these RMS Participant Terms:

- 2.1.** “*Acceptance Date*” means the date on which GreenBlue gives Participant written notice that the RMS Participant Application has been accepted by GreenBlue.

- 2.2.** “*Affiliate*” (collectively, “*Affiliates*”) means, with respect to a person, any other person directly or indirectly controlling, controlled by or under common control with the subject person.
- 2.3.** “*Attribute of Recycled Content*” or “*ARC*” (collectively, “*Attributes of Recycled Content*” or “*ARCs*”) means an environmental commodity certificate defined within the Recycled Material Standard.
- 2.4.** “*Certification Body*” (collectively, “*Certification Bodies*”) means an independent, third-party organization accredited or approved by GreenBlue (or by GreenBlue’s designee) to audit an organization’s conformance with the Recycled Material Standard and to issue an RMS Certification.
- 2.5.** “*Certified Participant*” (collectively, “*Certified Participants*”) means an organization that (a) holds at least one current RMS Certification that has not expired or been revoked, (b) has agreed to these RMS Participant Terms, and (c) whose right to participate in the RMS Program has not expired or terminated.
- 2.6.** “*Confidential Information*” means any non-public information relating to a party or its business and/or operations which is provided or disclosed by such party (a “*Disclosing Party*”) to the other party (a “*Receiving Party*”) in connection with these RMS Participant Terms and/or the RMS Program. Confidential Information include, without limitation: (a) technical information, including patent, copyright, trade secret, and other proprietary information, techniques, sketches, drawings, models, software, technology, works and inventions relating to the current, future or proposed products, services and/or business of a party, and (b) non-technical information relating to a party’s products or services, including without limitation pricing, margins, merchandising plans and strategies, finances, financial and accounting data and information, suppliers, customers, lists, purchasing data, sales and marketing plans, future plans, guidelines and any other information which is proprietary and confidential to each party. All confidential information of a Disclosing Party will be identified as such by such Disclosing Party at the time of its disclosure to the Receiving Party by clearly marking such information as “Confidential” or “Proprietary.”
- 2.7.** “*GreenBlue Parties*” (each, a “*GreenBlue Party*”) means GreenBlue, its Affiliates, and the Representatives of GreenBlue or of its Affiliates.
- 2.8.** “*Participant’s Marks*” means Participant’s name, trade names, corporate names, and Trademarks (as defined below).
- 2.9.** “*Person*” (or “*person*”) means any individual, corporation, company, partnership, association, trust, unincorporated organization, court or government or political subdivision or agency thereof, any other business entity or legal entity, and any legal person.
- 2.10.** “*Recycled Material Standard*”, “*RMS*”, or the “*Standard*” means, collectively, the RMS Framework, the RMS Plastics Module, the RMS Plastic Material Classification, each additional RMS Material Module published by GreenBlue from time to time, and the RMS Label and Trademark Guidelines.
- 2.11.** “*Representatives*” means, with respect to a person, the officers, directors, members, managers, employees, attorneys, contractors, and agents of such person.
- 2.12.** “*RMS Certification Marks*” (each, an “*RMS Certification Mark*”) means those certification marks developed and amended from time to time by GreenBlue that are authorized by GreenBlue for use by Certified Participants in connection with RMS Certifications to indicate certification pursuant to the

Recycled Material Standard.

- 2.13.** “RMS Complaints and Appeals Process” means the RMS Complaints and Appeals Process developed, published, and amended from time to time by GreenBlue, which is incorporated herein by this reference and which will be available on the RMS Website at: <https://www.rmscertified.com/about/standard/>.
- 2.14.** “RMS Fee Schedule” means the RMS Fee Schedule policy published and amended from time to time by GreenBlue, which is incorporated herein by this reference and which will be available on the RMS Website at: <https://www.rmscertified.com/about/standard/>.
- 2.15.** “RMS Framework” means the Recycled Material Standard Framework published and amended from time to time by GreenBlue, which will be available on the RMS Website at: <https://www.rmscertified.com/about/standard/>.
- 2.16.** “RMS Good Practice Principles” means the RMS Good Practice Principles published and amended from time to time by GreenBlue, which will be available on the RMS Website at: <https://www.rmscertified.com/about/standard/>.
- 2.17.** “RMS Label” (collectively, “RMS Labels”) means a label containing RMS Label Iconography which have been or are hereafter developed by GreenBlue for the purpose of identifying products and packages that use recycled materials or that support investments in recycling through ARC purchases.
- 2.18.** “RMS Label and Trademark Guidelines” means the RMS Label and Trademark Guidelines as developed, published, and amended from time to time by GreenBlue, which is incorporated herein by this reference and which will be available on the RMS Website at: <https://www.rmscertified.com/about/standard/>.
- 2.19.** “RMS Label Iconography” means all content and materials used in or on any RMS Labels, including without limitation: (i) all of the RMS Trademarks and GreenBlue’s other Trademarks; and (ii) all written content.
- 2.20.** “RMS Material Module” means a document (and all addenda thereto) published and amended from time to time by GreenBlue that supplements the RMS Framework and sets forth specific requirements for an organization to obtain an RMS Certification with respect to particular materials.
- 2.21.** “RMS Participant Application” means the Application for Participation in the Recycled Material Standard (RMS) Program submitted by Participant.
- 2.22.** “RMS Plastic Material Classification” means the Recycled Material Standard Plastic Material Classification published and amended from time to time by GreenBlue, which will be available on the RMS Website at: <https://www.rmscertified.com/about/standard/>.
- 2.23.** “RMS Plastics Module” means the RMS Material Module for plastics, identified as the Recycled Material Standard Plastics Module, together with all addenda thereto, published and amended from time to time by GreenBlue, which will be available on the RMS Website at: <https://www.rmscertified.com/about/standard/>.
- 2.24.** “RMS Policies” (each, an “RMS Policy”) means the RMS Complaints and Appeals Process, the RMS Fee

Schedule, and the RMS Standards Maintenance Policy.

2.25. “*RMS Program Materials*” means, collectively, (a) the Recycled Material Standard, (b) the RMS Good Practice Principles, (c) the RMS Policies, (d) the RMS Labels, (e) the RMS Label Iconography, and (f) any other graphics, documents, or materials provided by GreenBlue in connection with these RMS Participant Terms, the RMS Program, or the ARC Registry.

2.26. “*RMS Standards Maintenance Policy*” means the RMS Standards Maintenance policy as developed, published, and amended from time to time by GreenBlue, which is incorporated herein by this reference and which will be available on the RMS Website at: <https://www.rmscertified.com/about/standard/>.

2.27. “*RMS Trademarks*” means (a) the RMS Certification Marks; (b) the Trademarks set forth in [Exhibit A](#), attached hereto and incorporated herein by this reference; and (c) all other Trademarks at any time used by GreenBlue in connection with, or authorized by GreenBlue for use in connection with, the Recycled Material Standard, the RMS Program, the ARC Registry, or RMS Certifications.

2.28. “*RMS Website*” means the website located at: <https://www.rmscertified.com>.

2.29. “*Trademarks*” means trademarks, service marks, collective membership marks, certification marks, trade dress, logos, trade names, and corporate names, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith.

3. Term and Termination

The initial term of these RMS Participant Terms will commence on Acceptance Date and will continue for a period of one year (the “*Initial Term*”), unless otherwise sooner terminated as provided herein. At the end of the Initial Term, these RMS Participant Terms will automatically renew for successive one-year renewal terms (each, a “*Renewal Term*”) unless any party gives the other parties written notice of non-renewal at least sixty days prior to the expiration of the Initial Term or any Renewal Term, and unless otherwise sooner terminated as provided herein. The Initial Term and all Renewal Terms are collectively referred to as the “*Term*”. Participant may, in its sole discretion, terminate these RMS Participant Terms at any time by providing GreenBlue with written notice of termination. GreenBlue may terminate these RMS Participant Terms upon providing written notice of termination to Participant if Participant materially breaches these RMS Participant Terms and fails to cure such breach within thirty days of written notice from GreenBlue specifying such breach. Participant’s right to participate in the RMS Program, Participant’s eligibility to obtain or maintain an RMS Certification, the Certification Mark License (as defined below), and the RMS Label License (as defined below) will automatically terminate upon the expiration or termination of these RMS Participant Terms.

4. Confidentiality

Each party will (a) not disclose, disseminate or use any Confidential Information of the other party, except (i) as expressly permitted under these RMS Participant Terms; or (ii) as is necessary in connection with the performance of its obligations under these RMS Participant Terms and, in the case of GreenBlue, the operation of the RMS Program, and the ARC Registry; and (b) use commercially reasonable efforts to

protect the Confidential Information of the other party from unauthorized access or dissemination. Each party may disclose Confidential Information of the other party only to its Representatives who reasonably need to know such information and each party shall be liable for any unauthorized use or disclosure by any of its Representatives of the other party's Confidential Information. If a party is required by law, subpoena, discovery requests, or other legal process to disclose any Confidential Information of the other party, it may disclose such Confidential Information to the extent required, provided that, if lawful to do so, it notifies the other party in writing in sufficient time to enable the other party to seek to obtain a protective order. The parties' obligations under this Section 4 with respect to each item of Confidential Information shall survive the termination of these RMS Participant Terms for a period of five (5) years, provided, that (i) neither party as a Receiving Party shall have any obligations under these RMS Participant Terms with respect to any Confidential Information of the other party as a Disclosing Party which becomes publicly known or known by third parties without any confidentiality obligation to the Disclosing Party for any reason other than a violation by the Receiving Party of its obligations under this Section 4; and (ii) with respect to any Confidential Information of a Disclosing Party which constitutes a trade secret under the Defend Trade Secrets Act of 2016, the Receiving Party's obligations under this Section 4 shall continue with respect to such Confidential Information for so long as it constitutes a trade secret under the Defend Trade Secrets Act of 2016.

5. Recycled Material Standard and RMS Good Practice Principles

Throughout the Term, Participant will comply with all of the requirements set forth in the Recycled Material Standard and all of the provisions of the RMS Good Practice Principles. Participant acknowledges and agrees that the Recycled Material Standard and the RMS Good Practice Principles will evolve over time and may be amended by GreenBlue pursuant to the RMS Standards Maintenance Policy. GreenBlue will give Participant written notice of each new version of the Recycled Material Standard and the RMS Good Practice Principles, which will be effective with respect to Participant in accordance with the RMS Standards Maintenance Policy. Participant agrees that it will comply with the then-current Recycled Material Standard and RMS Good Practice Principles in effect on the start of each Renewal Term. At the start of the Initial Term and of each Renewal Term, Participant will sign an attestation that Participant is in compliance with the then-current RMS Good Practice Principles.

6. RMS Certification

6.1. Obtaining an RMS Certification. Participant will use its good faith efforts to implement the Recycled Material Standard and to obtain and maintain at least one RMS Certification pursuant to the requirements and process set forth in the Standard. Participant acknowledges and agrees: (a) that GreenBlue is not a Certification Body or a certifying agency or body; (b) that GreenBlue does not issue RMS Certifications; (c) that GreenBlue is unable to require or direct a Certification Body to issue an RMS Certification; and (d) that Participant's participation in the RMS Program, the issuance of an RMS Certification, and/or Participant's use of the RMS Labels does not constitute or imply (i) Participant's compliance with any laws, regulations, or legal requirements, including without limitation, any regulations promulgated by the Federal Trade Commission ("FTC"), (ii) any endorsement or approval by the FTC or any international, federal, state, or local government agency or authority, or (iii) any endorsement or approval by any of the GreenBlue Parties or by any Certification Body.

6.2. Participant Representations and Warranties. Participant represents and warrants to GreenBlue: (a) that all information contained in the RMS Participant Application is true, complete, and accurate; (b) that all information provided by Participant to the Certification Bodies is and will be true, complete, and accurate in all material respects; (c) that Participant will not provide any materially false or misleading information to any Certification Body; (d) that Participant will not fail to make available or disclose to any Certification Body any material facts relevant to compliance with the Standard or to obtaining or maintaining an RMS Certification; and (e) that all attestations and certifications provided by Participant to GreenBlue will, when provided, be true, complete, and accurate in all material respects.

6.3. Grievance Process. In the event that Participant disputes the findings, determinations, or decisions of a Certification Body or has any other grievances with respect to an RMS Certification or a Certification Body, Participant must first attempt to resolve such dispute or grievance directly with the Certification Body. Participant acknowledges and agrees that all disputes, grievances, complaints, and appeals related to RMS Certifications and the RMS Program will be subject to the RMS Complaints and Appeals Process.

6.4. Release of Liability. PARTICIPANT IRREVOCABLY AGREES NOT TO SUE AND WAIVES AND RELEASES THE GREENBLUE PARTIES FROM, AGAINST, AND WITH RESPECT TO ANY AND ALL LIABILITY, DAMAGES, LOSSES, CLAIMS, AND CAUSES OF ACTION ARISING OUT OF OR RELATING TO (1) ANY FINDING, DETERMINATION, OR DECISION BY GREENBLUE RELATING TO PARTICIPANT'S PARTICIPATION IN THE RMS PROGRAM OR THE ARC REGISTRY, (2) THE STATUS OF PARTICIPANT'S RMS CERTIFICATIONS, (3) PARTICIPANT'S USE OF ANY RMS LABELS OR RMS LABEL ICONOGRAPHY, INCLUDING ANY DECISION OR DETERMINATION THAT PARTICIPANT MUST NOT USE, OR MUST CEASE USING, ANY RMS LABELS OR RMS LABEL ICONOGRAPHY, OR (4) THE ACTS, OMISSIONS, FINDINGS, DETERMINATIONS, OR DECISIONS OF THE CERTIFICATION BODIES AND THEIR REPRESENTATIVES, INCLUDING WITHOUT LIMITATION ANY DECISIONS NOT TO ISSUE OR RENEW AN RMS CERTIFICATION.

6.5. RMS Certification Marks. While Participant is a Certified Participant, GreenBlue grants Participant a limited, non-exclusive, non-transferable, non-sublicensable license during the Term to use and display the RMS Certification Marks (the "*Certification Mark License*"). Participant will only use and display the RMS Certification Marks in connection with Participant's RMS Certifications to indicate Participant's certification pursuant to the Recycled Material Standard and only in accordance with the RMS Label and Trademark Guidelines (as published and amended from time to time by GreenBlue). Participant will not use or display the RMS Certification Marks on any products, product labels, or product packaging except as part of RMS Labels pursuant to the RMS Label License (as defined below). All goodwill associated with the use of the RMS Certification Marks will inure to the benefit of GreenBlue. The Certification Mark License will automatically terminate when Participant ceases to be a Certified Participant.

6.6. Reports and Presentations. GreenBlue may identify Participant and describe Participant's participation in the RMS Program and the RMS Certifications issued to Participant in various materials (collectively, "*Reports and Presentations*"), including without limitation in public reports, presentations, publications, articles, posts (including posts on social media platforms), and on the RMS Website. GreenBlue may use such Reports and Presentations in connection with describing, promoting, and marketing the RMS Program and preparing periodic reports regarding the RMS Program (such as annual reports). Participant grants the GreenBlue Parties a limited, non-exclusive, non-transferable license to use, copy, distribute, and display Participant's Marks for the purposes set forth in this Section 6.6 during the Term. All goodwill associated with the use and display of Participant's Marks will inure to the benefit of Participant.

7. RMS Labels

7.1. RMS Label Request Process. When Participant desires to use an RMS Label, Participant must submit a request to GreenBlue (using such request submission methods as GreenBlue may specify from time to time). Such request must identify the details of the RMS Label that Participant desires to use and how Participant intends to use it. For each such request approved by GreenBlue, GreenBlue will create and issue an RMS Label (each, an “*Issued RMS Label*”, collectively, the “*Issued RMS Labels*”) to Participant.

7.2. RMS Label License. While Participant is a Certified Participant, GreenBlue grants Participant a limited, non-exclusive, non-transferable, non-sublicensable license (the “*RMS Label License*”) during the Term to use and display the Issued RMS Labels on or in connection with Participants products, product labels, or product packaging in accordance with the RMS Label and Trademark Guidelines (as published and amended from time to time by GreenBlue). All goodwill associated with the use of the RMS Labels and the RMS Label Iconography will inure to the benefit of GreenBlue. GreenBlue reserves the right to require Participant (a) to modify any RMS Labels or RMS Label Iconography used by Participant, or (b) to stop using any specific RMS Labels or RMS Label Iconography. The RMS Label License will automatically terminate when Participant ceases to be a Certified Participant.

7.3. Discontinuing Use of RMS Labels. If at, at any time, Participant’s RMS Certification is placed in a suspended status, Participant will immediately stop manufacturing or creating any new products, product labels, or product packaging bearing or displaying any RMS Labels or RMS Label Iconography and stop applying or displaying any RMS Labels or RMS Label Iconography to any products, product labels, or product packaging. Upon the termination of the RMS Label License, Participant and its Affiliates will (a) promptly, but no later than six months following such termination, cease and desist all use and display of the RMS Labels and the RMS Label Iconography, and (b) immediately (i) cease and desist manufacturing or creating any new products, product labels, or product packaging bearing or displaying any RMS Labels or RMS Label Iconography and (ii) cease and desist applying the RMS Labels or RMS Label Iconography to any products, product labels, or product packaging.

7.4. FTC Guides. Participant agrees that it will only use and display the RMS Labels and the RMS Label Iconography in a manner that complies with the then-current version of the Federal Trade Commission’s Guides for the Use of Environmental Marketing Claims (the “*FTC Guides*”). However, Participant acknowledges that the FTC Guides may not provide specific guidance regarding certain claims related to recycled content and support of recycling, and, in such situations, Participant will use its best efforts to ensure its use of the RMS Labels and the RMS Label Iconography is consistent with the principle set forth in the FTC Guides. GreenBlue does not represent or warrant that the RMS Labels or any use thereof by Participant will comply with the FTC Guides, and it is solely Participant’s responsibility to ensure that its use of the RMS Labels and the RMS Label Iconography comply with the FTC Guides.

7.5. Authorized Use Only. Participant agrees (a) that it will use or display the RMS Labels and RMS Label Iconography only while Participant is a Certified Participant, (b) that it will not use or display any RMS Labels or RMS Label Iconography except pursuant to the terms of the RMS Label License, (c) that it will not use or display any RMS Label Iconography separately from the RMS Labels, (d) that it will not use or display any RMS Labels except the Issued RMS Labels (as defined below), and (e) that it will not modify any RMS Labels or RMS Label Iconography.

8. RMS Certificate Database

Participant acknowledges and agrees that all organizations that participate in the RMS Program will be listed in the RMS Certificate Database both during and after their participation in the RMS Program. Participant hereby grants GreenBlue a perpetual, irrevocable, worldwide, transferable, sublicensable license to store, copy, publicly display, publicly perform, and publicly distribute, as part of the RMS Certificate Database, Participant's Marks and the details of each RMS Certification issued to Participant (including copies of each RMS Certification and audit reports prepared by each applicable RMS Certification Body) and the status thereof over time.

9. Fees

During the Term, Participant will pay to GreenBlue the applicable annual Certificate Administration Fees (as defined in the RMS Fee Schedule), which will be due and payable on the first day of the Initial Term and on each anniversary thereafter, and all other applicable fees set forth in in the RMS Fee Schedule. All fees payable under these RMS Participant Terms are non-refundable. If, during the Initial Term or a Renewal Term, Participant's annual gross revenues for such year change such that Participant falls within a different annual gross revenues fees tier, Participant will notify GreenBlue and the applicable fees payable by Participant will be adjusted based on Participant's applicable gross annual revenue tier commencing in the next Renewal Term. Participant represents and warrants that the information that it has provided, and hereafter provides, to GreenBlue concerning its annual gross revenues is true, complete, and accurate in all materials respects. Participant agrees to provide GreenBlue with such additional information that GreenBlue may reasonably request from time to time to verify Participant's annual gross revenues provided, that any such non-public information provided by Participant will constitute Confidential Information of Participant.

10. Updates

As the RMS Program grows and develops, GreenBlue may update, revise, or amend these RMS Participant Terms and the RMS Policies from time to time in its sole discretion upon providing at least ninety (90) days' prior written notice thereof to Participant, and any such updates, revisions, or amendments will take effect for the Renewal Term immediately following such notice. Participant will review the then-current RMS Participant Terms and RMS Policies before each Renewal Term and acknowledges and agrees that the then-current RMS Participant Terms and RMS Policies will be binding upon Participant.

11. Intellectual Property Rights

Participant acknowledges and agrees that GreenBlue owns all copyrights, trademark rights, and other intellectual property rights in and to the Recycled Material Standard, the RMS Program, the RMS Trademarks, GreenBlue's other Trademarks, and the RMS Program Materials (collectively, the "*RMS Intellectual Property*"). Participant will not, at any time, challenge, or contest GreenBlue's ownership of the RMS Intellectual Property and the intellectual property rights and proprietary rights therein and thereto. Except as otherwise expressly provided herein, nothing in these RMS Participant Terms, the RMS Policies,

or the Recycled Material Standard grants Participant any right, title, interest, or license in or to any of the RMS Intellectual Property. Participant will not use, copy, distribute, display, modify, or create derivative works of any RMS Intellectual Property or any marks confusingly similar to the RMS Trademarks except as expressly authorized in these RMS Participant Terms or in another written agreement between GreenBlue and Participant.

12. Limited Warranties; Disclaimers

12.1. GreenBlue represents and warrants to Participant that (a) it is the owner of all the intellectual property rights in the RMS Program Materials or that it has the right to license to Participant use of the RMS Program Materials in accordance with these RMS Participant Terms; and (b) use by Participant of the RMS Program Materials in the United States during the Term in accordance with these RMS Participant Terms will not infringe any third party's intellectual property rights.

12.2. EXCEPT AS SET FORTH IN SECTION 12.1 ABOVE, THE RMS PROGRAM MATERIALS ARE PROVIDED "AS IS", "WITH ALL FAULTS" AND "AS AVAILABLE", AND GREENBLUE HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND RELATING TO THE RECYCLED MATERIAL STANDARD, THE RMS PROGRAM, THE ARC REGISTRY, THE RMS LABELS, AND THE RMS PROGRAM MATERIALS, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NONE OF THE GREENBLUE PARTIES MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, RELIABILITY, QUALITY, ACCURACY, APPROPRIATENESS, ADEQUACY, OR RELIABILITY OF THE RECYCLED MATERIAL STANDARD, THE RMS PROGRAM, THE ARC REGISTRY, THE RMS LABELS, OR THE RMS PROGRAM MATERIALS.

13. Indemnification

13.1. Participant will indemnify and hold the GreenBlue Parties harmless from and against any and all damages, liability, losses, costs, and expenses (including reasonable attorneys' fees and court costs) (collectively, "Losses") which are suffered or incurred by the GreenBlue Parties in connection with any demand, claim, or cause of action asserted by a third-party, including any government body, authority, or agency (each, a "Third-Party Claim") (a) which arises out of or relates to (i) Participant's (or its Affiliates') use of any of the RMS Program Materials in violation of these RMS Participant Terms, (ii) any of Participant's RMS Certifications, (iii) any failure of Participant or its Affiliates to comply with the Recycled Material Standard, (iv) any failure of Participant or its Affiliates to comply with the FTC Guides, or (v) any violation of law by Participant or any of Participant's Affiliates or Representatives; (b) alleging that any claims or statements made by Participant (or any of Participant's Affiliates or Representatives) are false, cannot be substantiated, or lead to consumer deception; (c) alleging that Participant's or its Affiliates' use of the RMS Labels, the RMS Label Iconography, or the RMS Trademarks leads to consumer deception (excluding Third-Party Infringement Claims for which GreenBlue is obligated to indemnify Participant pursuant to Section 13.2 below); or (d) alleging that any of Participant's Marks (or any other intellectual property provided by or on behalf of Participant or its Affiliates) or the GreenBlue Parties' use thereof in accordance with the provisions of these RMS Participant Terms, infringe, misappropriate, or violate the intellectual property rights or proprietary rights of a third-party.

13.2. GreenBlue will indemnify and hold Participant harmless from and against any Losses which are suffered or incurred by Participant in connection with any Third-Party Claim (a) which arises out of or relates to any violation of law by GreenBlue or any of GreenBlue's Representatives; and/or (b) alleging that any of the RMS Program Materials, or Participant's use thereof during the Term in accordance with the terms of these RMS Participant Terms, infringe, misappropriate, or violate the intellectual property or proprietary rights of a third-party (a "*Third-Party Infringement Claim*"); provided, that GreenBlue's foregoing indemnification obligations with respect to Third-Party Infringement Claims shall not apply to any Third-Party Infringement Claim which arises out of or results from (1) any use of the RMS Program Materials by Participant or Participant's Affiliates or Representatives in violation of these RMS Participant Terms; (2) use of any of the RMS Program Materials by Participant or Participant's Affiliates or Representatives outside of the United States; or (3) use of Infringing Material (as defined below) by Participant or Participant's Affiliates or Representatives after GreenBlue has modified or replaced such Infringing Material or terminated Participant's right to use such Infringing Materials as set forth in Section 13.3 below.

13.3. If any Third-Party Infringement Claim is asserted, or GreenBlue reasonably believes that a Third-Party Infringement Claim may be asserted, GreenBlue will have the right, at its option, to (a) modify the alleged infringing material (the "*Infringing Material*") to render it non-infringing; (b) replace the Infringing Material; (c) acquire a license entitling Participant to use the Infringing Material in accordance with the provisions of these RMS Participant Terms; or (d) if none of the foregoing are reasonably available, require Participant, upon providing written notice to Participant, to cease use of the Infringing Material, in which event, Participant shall cease use of the Infringing Material.

13.4. If a party asserts a claim for indemnification under these RMS Participant Terms (the "*Indemnified Party*"), it will provide the other party (the "*Indemnifying Party*") with prompt written notice of the applicable Third-Party Claim (provided that a failure to provide such notice shall not relieve the Indemnifying Party of its indemnification obligations hereunder, except to the extent the Indemnifying Party is materially prejudiced thereby). The Indemnifying Party shall control the defense of any Third-Party Claim for which it is required to indemnify the other party under these RMS Participant Terms (an "*Indemnified Claim*") at its own cost and with legal counsel of its choice, provided that the Indemnifying Party shall not settle any Indemnified Claim without the consent of the Indemnified Party (which shall not be unreasonably withheld) if the terms of such settlement (a) do not include a full release of liability of the Indemnified Party with respect to all claims and causes of actions asserted in or comprising such Indemnified Claim; (b) impose any restrictions or obligations on the Indemnified Party; or (c) admit any fault by, or make any admission adverse to, the Indemnified Party. The Indemnified Party may participate in the defense of an Indemnified Claim at its own cost. If the Indemnifying Party fails to timely defend an Indemnified Claim and/or to provide the Indemnified Party with reasonable assurances that it will defend an Indemnified Claim, the Indemnified Party will have the right to defend such Third-Party Claim and to control the defense thereof, and the Indemnifying Party will, as part of its indemnification obligations with respect to such Third-Party Claim, pay all costs and expenses incurred by the Indemnified Party in defending such Third-Party Claim, including its reasonable attorneys' fees and court costs. Except when the Indemnifying Party has failed to timely defend an Indemnified Claim or to provide the Indemnified Party with reasonable assurances that it will defend an Indemnified Claim, the Indemnifying Party will not be liable under any settlement of an Indemnified Claim which is entered into without the Indemnifying Party's prior written consent, which consent will not be unreasonably withheld, conditioned, or delayed.

13.5. Each party will maintain in full force and effect throughout the Term and for a period of two years

thereafter insurance coverage in types and amounts appropriate to the conduct of its businesses and sufficient to support its indemnification obligations hereunder. Upon reasonable request, a party will provide a copy of the certificate(s) evidencing such insurance to the other party.

14. Limitation of Liability

WITHOUT LIMITING EACH PARTY'S INDEMNIFICATION OBLIGATIONS PURSUANT TO SECTION 13 ABOVE AND EXCEPT FOR CLAIMS INVOLVING A BREACH OF A PARTY'S OBLIGATIONS UNDER SECTION 4 ABOVE, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY, MULTIPLE, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES (INCLUDING LOST PROFITS, LOST SAVINGS, OR LOST OPPORTUNITIES) FOR ANY CLAIMS ARISING OUT OF OR RELATING TO THESE RMS PARTICIPANT TERMS OR THE RMS PROGRAM, REGARDLESS OF WHETHER EITHER PARTY OR ANY OTHER PERSON HAS BEEN INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES.

15. Relationship Between the Parties

Nothing in these RMS Participant Terms will be construed as creating any partnership, joint venture, employment relationship, or agency relationship in any way between GreenBlue and Participant. Neither GreenBlue nor Participant will have apparent or actual authority to bind the other party to any debt, contract, or other arrangement, and neither party will be deemed a Representative of the other party.

16. General Provisions

16.1. Due Authorization. Each party represents, warrants and agrees that the execution and performance of these RMS Participant Terms have been duly approved by all necessary action, corporate or otherwise, and are not in violation of any other agreement such party has with any third parties; and that these RMS Participant Terms are a valid binding, legal obligation of each party, enforceable in accordance with its terms.

16.2. Further Assurances. Each party agrees that it will execute, acknowledge, and deliver all such further documents, and take such further action, as may be reasonably required to carry out and consummate the transactions contemplated by these RMS Participant Terms.

16.3. Notice. All notices provided in connection with these RMS Participant Terms will be in writing and delivered to the parties as follows: (a) Notices to Participant will be delivered to the mailing address or e-mail address set forth in the RMS Participant Application, and (b) Notices to GreenBlue will be delivered to the following mailing address or e-mail address:

GreenBlue
ATTN: RMS Program
600 East Water Street, Suite C
Charlottesville, Virginia 22902
rms@greenblue.org.

Each party will notify the other of any change of mailing address or e-mail address by written notice to the other party delivered as provided herein. Notices provided in connection with these RMS Participant Terms will be deemed received (i) upon delivery, when delivered in person or by commercially receipted courier; (ii) upon the date sent by e-mail, if delivery is confirmed; or (iii) seven (7) days after deposit with the U.S. Postal Service by registered or certified mail. This paragraph does not apply to legal service of process, which instead will be governed by applicable law.

16.4. Governing Law. These RMS Participant Terms will be governed by and construed in accordance with the laws of the Commonwealth of Virginia and the applicable federal laws of the United States, without regard to the conflict of law and choice of law rules or provisions of any jurisdiction. Any and all claims and disputes arising out of, or relating to, these RMS Participant Terms, or the performance or non-performance by either party of any of its obligations hereunder will be commenced and maintained only in a state or federal court of competent subject matter jurisdiction situated or located in Albemarle County, Virginia, United States or Charlottesville, Virginia, United States and any appellate court therefrom. Each party consents to the exclusive personal jurisdiction of and venue in any such court and the applicable appellate courts therefrom. If any ambiguity or question of intent or interpretation arises, these RMS Participant Terms will be construed as if drafted jointly by the parties and no presumptions or burden of proof will arise favoring or disfavoring any party by virtue of authorship of any of the provisions of these RMS Participant Terms.

16.5. Waiver of Jury Trial. EACH PARTY WAIVES TRIAL BY JURY FOR ALL CLAIMS AND CAUSES OF ACTION ARISING OUT OF OR RELATING TO THESE RMS PARTICIPANT TERMS OR THE RMS PROGRAM AND THE PARTIES CONFIRM THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO THE PARTIES ENTERING INTO THESE RMS PARTICIPANT TERMS.

16.6. Headings; General Construction. The descriptive headings in these RMS Participant Terms are inserted for convenience only and do not constitute a part of these RMS Participant Terms. The words “include”, “includes”, and “including” are not limiting, the word “or” is not exclusive, and the words “herein”, “hereunder”, and “hereof” refers to these RMS Participant Terms.

16.7. Non-Waiver. No waiver of any term or condition of these RMS Participant Terms by any party will be deemed a continuing or further waiver of the same term or condition or a waiver of any other term or condition of these RMS Participant Terms.

16.8. Severability. In the event that any provision of these RMS Participant Terms is finally determined by a court of competent jurisdiction to be void, unenforceable, invalid, or otherwise contrary to law or equity, the parties agree to reform (or as necessary, authorize such tribunal to reform) these RMS Participant Terms to the extent necessary to cure (or if necessary, delete) such provision, and that the remainder of these RMS Participant Terms that can be given effect without the benefit of such provision will be given effect.

16.9. Non-Assignability; Binding Effect. These RMS Participant Terms are personal to Participant. Neither these RMS Participant Terms nor any of Participant’s rights or obligations will be sold, transferred, delegated, or assigned by Participant without the prior written consent of GreenBlue, and any attempt to do so without such consent will be void *ab initio*, and no rights will devolve by operation of law or otherwise upon any assignee, receiver, liquidator, trustee, or other party. Any permitted assignee will assume all obligations of its assignor under these RMS Participant Terms. Subject to the foregoing, these RMS

Participant Terms will be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and legal representatives.

16.10. No Third-Party Beneficiaries. Nothing in these RMS Participant Terms is intended, nor will be deemed, to confer any rights or remedies upon any person or legal entity not a party to these RMS Participant Terms.

16.11. Entire Agreement. These RMS Participant Terms contain the entire agreement and understanding of the parties to these RMS Participant Terms with respect to the transactions contemplated herein; and these RMS Participant Terms and supersede all prior understandings and agreements of the parties with respect to the subject matter hereof. There are no oral or written representations, agreements, arrangements, or understandings between the parties hereto relating to the subject matter of these RMS Participant Terms that are not fully expressed herein.

17. Survival

Any termination, cancellation, or expiration of these RMS Participant Terms notwithstanding, Sections 6.4, 6.5, 6.6, 7.5, 8, 9, 11, 12, 13, 14, and 16, and any provisions which are by their terms intended to survive and continue, will survive and continue.

EXHIBIT A

RMS Trademarks

The RMS Trademarks include the following:

- Recycled Material Standard
- RMS
- RMS Certified
- Attribute of Recycled Content
- Attributes of Recycled Content
- ARC
- ARCs
- ARC Registry

