

# CERTIFICATION BODY AGREEMENT

THIS RMS CERTIFICATION BODY AGREEMENT (this “*Agreement*”) is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ (the “*Effective Date*”), by and between Green Blue Institute, Inc., a Delaware non-profit corporation (“*GreenBlue*”), and \_\_\_\_\_, a \_\_\_\_\_ (“*Certification Body*”). 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 participating organizations (each, a “*Participant*”, collectively, “*Participants*”) to obtain a certification (each, an “*RMS Certification*”, collectively, “*RMS Certifications*”) of the organizations’ compliance with the Recycled Material Standard through Accredited Certification Bodies (as defined below), to be listed a searchable, public database (the “*RMS Certificate Database*”), and to use and display certain RMS Labels (as defined below). Transparency and accountability are core aspects of the RMS Program, and each Accredited Certification Body will be publicly listed on the RMS Website.
- 1.3.** GreenBlue has defined a new environmental commodity referred to as Attributes of Recycled Content and has created a system and registry (the “*ARC Registry*”) for the generation, trading, and retirement of ARCs (as defined below).
- 1.4.** Certification Body desires to become an Accredited Certification Body and to provide an RMS Certification Program (as defined below) pursuant to the terms of this Agreement.

## 2. Definitions

As used in this Agreement:

- 2.1.** “*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.
- 2.2.** “*Attributes of Recycled Content*” or “*ARC*” (collectively, “*ARCs*”) means an environmental commodity certificate defined within the Recycled Material Standard.
- 2.3.** “*Accredited Certification Body*” (collectively, “*Accredited 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 through the RMS Program.

**2.4.** "*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 entered into the RMS Participant Terms and Conditions with GreenBlue, and (c) whose right to participate in the RMS Program has not expired or terminated.

**2.5.** "*Certification Body's Marks*" means Certification Body's name, trade names, corporate names, and Trademarks (as defined below).

**2.6.** "*Certification Candidate*" (collectively, "*Certification Candidates*") means a Participant that (a) has entered into the RMS Participant Terms and Conditions with GreenBlue, (b) whose right to participate in the RMS Program has not expired or terminated, and (c) has applied to Certification Body to obtain an RMS Certification through the RMS Certification Program offered by Certification Body.

**2.7.** "*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 this Agreement 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."

**2.8.** "*GreenBlue Parties*" (each, a "*GreenBlue Party*") means GreenBlue, its Affiliates, and the Representatives of GreenBlue or of its Affiliates.

**2.9.** "*GreenBlue Trademarks*" (each, a "*GreenBlue Trademark*") means the RMS Trademarks (as defined below), the "GreenBlue" word mark, the GreenBlue logos and design marks, and all other Trademarks owned by GreenBlue.

**2.10.** "*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.

**2.11.** "*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.

**2.12.** "*Representatives*" means, with respect to a person, the officers, directors, members, managers, employees, attorneys, contractors, and agents of such person.

**2.13.** “RMS Accreditation Policy” means the Policy for Accreditation of RMS Certification Bodies 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 Accredited Marks” (each, an “RMS Accredited Mark”) means those certification marks developed and amended from time to time by GreenBlue that are authorized by GreenBlue for use by Accredited Certification Bodies to indicate accreditation as a certification body pursuant to the Recycled Material Standard.

**2.15.** “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.

**2.16.** “RMS Certification Program” means a program for auditing and certifying an organization’s compliance with the Recycled Material Standard.

**2.17.** “RMS Certification Body Fee Schedule” means the RMS Certification Body Fee Schedule attached hereto as Exhibit B and incorporated herein by this reference, as amended from time to time by GreenBlue.

**2.18.** “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/>.

**2.19.** “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/>.

**2.20.** “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.

**2.21.** “RMS Trademark Policy for Certification Bodies” means an RMS Trademark Policy for Certification Bodies as developed, published, and amended from time to time by GreenBlue and provided to Certification Body.

**2.22.** “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.

**2.23.** “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.

**2.24.** “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/>.

**2.25.** “*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/>.

**2.26.** “*RMS Policies*” (each, an “*RMS Policy*”) means the RMS Accreditation Policy, the RMS Requirements for Certification Bodies, the RMS Certification Body Fee Schedule, and the RMS Trademark Policy for Certification Bodies.

**2.27.** “*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 this Agreement or the RMS Program.

**2.28.** “*RMS Trademarks*” means (a) the RMS Accredited Marks, (b) the RMS Certification Marks; (c) the Trademarks set forth in the Trademark Schedule (as defined below), as amended from time to time by GreenBlue; and (d) 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, an RMS Certification Program, or RMS Certifications.

**2.29.** “*RMS Trademark Policy for Certification Bodies*” means the RMS Trademark Policy for Certification Bodies as developed, published, and amended from time to time by GreenBlue and provided to Certification Body.

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

**2.31.** “*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.

**2.32.** “*Trademark Schedule*” means the Trademark Schedule set forth in Exhibit A, attached hereto and incorporated herein by this reference, as amended from time to time by GreenBlue. GreenBlue may amend the Trademark Schedule at any time upon written notice to Certification Body.

### 3. Term and Termination

The initial term of this Agreement will commence on the Effective 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, this Agreement 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*”. Certification Body may, in its sole discretion, terminate this Agreement at any time by providing GreenBlue with written notice of termination. GreenBlue may terminate this Agreement upon providing written notice of termination to Certification Body if Certification Body materially breaches this

Agreement and fails to cure such breach within thirty days of written notice from GreenBlue specifying such breach. Upon the expiration or termination of this Agreement, (a) the Trademark License (as defined below) and Certification Body's right to participate in the RMS Program and to provide an RMS Certification Program will automatically terminate, and (b) Certification Body will automatically cease to be an Accredited Certification Body.

## 4. Confidentiality

Each party will (a) not disclose, disseminate or use any Confidential Information of the other party, except (i) as expressly permitted under this Agreement; or (ii) as is necessary in connection with the performance of its obligations under this Agreement and, in the case of GreenBlue, the operation of the RMS Program; 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 this Agreement for a period of five (5) years, provided, that (i) neither party as a Receiving Party shall have any obligations under this Agreement 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. Accreditation

Certification Body acknowledges that it will only be eligible to provide an RMS Certification Program while Certification Body is an Accredited Certification Body. Certification Body's eligibility to become and remain an Accredited Certification Body is subject to the terms and conditions of this Agreement, including the RMS Accreditation Policy. Notwithstanding any other provision in this Agreement to the contrary: when Certification Body is not an Accredited Certification Body, it will not (a) use or display any GreenBlue Trademarks, (b) provide an RMS Certification Program, or (c) otherwise audit or certify (or offer to audit or certify) any organization with respect to its compliance with the Recycled Material Standard. The provisions of this Section 5 will, specifically and without limitation, survive the expiration or termination of this Agreement.

## 6. RMS Policies

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

## 7. RMS Certification Program

7.1. RMS Certification Program. Throughout the Term, Certification Body will, pursuant to the terms of this Agreement, provide an RMS Certification Program to audit and certify the compliance of Certification Candidates with the Recycled Material Standard and their self-attestation of compliance with the RMS Good Practice Principles. Certification Body will not issue any RMS Certification to any Participant except upon Certification Body's good faith determination based on an audit conducted by Certification Body in accordance with the RMS Requirements for Certification Bodies that Participant (a) is in compliance with the Recycled Material Standard and (b) has self-attested to its compliance with the RMS Good Practice Principles. The Recycled Material Standard will evolve over time and may be amended by GreenBlue. GreenBlue will give Certification Body written notice of each new version of the Recycled Material Standard and the effective date thereof.

7.2. Certification Body Representations and Warranties. Certification Body represents and warrants to GreenBlue: (a) that all information contained in the RMS Certification Body Application is true, complete, and accurate; and (b) that all information provided by Certification Body to GreenBlue is and will be true, complete, and accurate in all material respects.

7.3. Release of Liability. CERTIFICATION BODY 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 (A) CERTIFICATION BODY'S PARTICIPATION IN THE RMS PROGRAM, OR (B) CERTIFICATION BODY'S STATUS AS AN ACCREDITED CERTIFICATION BODY (INCLUDING WITHOUT LIMITATION ANY DETERMINATION OR DECISION NOT TO ACCREDIT CERTIFICATION BODY OR NOT TO RENEW CERTIFICATION BODY'S ACCREDITATION), (2) CERTIFICATION BODY'S USE OF ANY LICENSED GREENBLUE TRADEMARKS, INCLUDING ANY DECISION OR DETERMINATION THAT CERTIFICATION BODY MUST NOT USE, OR MUST CEASE USING, ANY RMS CERTIFICATION MARKS OR ANY OTHER GREENBLUE MARKS, OR (3) THE ACTS, OMISSIONS, FINDINGS, DETERMINATIONS, OR DECISIONS OF CERTIFICATION BODY AND ITS REPRESENTATIVES, INCLUDING WITHOUT LIMITATION ANY DECISIONS NOT TO ISSUE OR RENEW AN RMS CERTIFICATION. THE PROVISIONS OF THIS SECTION 7.3 WILL, SPECIFICALLY AND WITHOUT LIMITATION, SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

## 8. Trademarks and Reports

**8.1. RMS Trademarks.** While Certification Body is an Accredited Certification Body, GreenBlue grants Certification Body a limited, non-exclusive, non-transferable, non-sublicensable license (the “*Trademark License*”) during the Term (a) to use and display the RMS Certification Marks (and such other GreenBlue Trademarks as GreenBlue may designate in writing from time to time) on RMS Certifications issued by Certification Body to Certificate Candidates, and (b) to use and display the RMS Accredited Marks. Certification Body will only use and display the RMS Accredited Marks in connection with the RMS Certification Program offered by Certification Body to indicate Certification Body’s accreditation as a certification body pursuant to the RMS Program and only in accordance with the RMS Trademark Policy for Certification Bodies (as may be published and amended from time to time by GreenBlue). All goodwill associated with the use of the GreenBlue Trademarks will inure to the benefit of GreenBlue. The Trademark License will automatically terminate when Certification Body ceases to be an Accredited Certification Body.

**8.2. Authorized Use Only.** Certification Body agrees (a) that it will use or display the RMS Certification Marks, the RMS Accredited Marks, and any other licensed GreenBlue Trademarks only while Certification Body is an Accredited Certification Body, (b) that it will not use or display any RMS Certification Marks separately from the RMS Certifications issued by Certification Body to Certificate Candidates, and (c) that it will not modify any licensed GreenBlue Trademarks.

**8.3. Reports and Presentations.** GreenBlue may identify Certification Body and describe Certification Body’s participation as a certification body in the RMS Program in various materials (collectively, “*Reports and Presentations*”), including without limitation in public reports, presentations, publications, articles, posts (including posts on social media platforms), on the RMS Website, and in RMS Participant applications. 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). Certification Body grants the GreenBlue Parties a limited, non-exclusive, non-transferable license to use, copy, distribute, and display Certification Body’s Marks for the purposes set forth in this Section 8.3 during the Term. All goodwill associated with the use and display of Certification Body’s Marks will inure to the benefit of Certification Body.

## 9. RMS Certificate Database

Certification Body acknowledges and agrees that all organizations that participate in the RMS Program may be listed in the RMS Certificate Database both during and after their participation in the RMS Program. Certification Body 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, Certification Body’s Marks and the details of each RMS Certification issued by Certification Body and the status thereof over time.

## 10. Fees

During the Term, Certification Body will pay to GreenBlue the applicable fees set forth in the RMS Certification Body Fee Schedule, which, unless otherwise stated in the RMS Certification Body Fee Schedule, will be due and payable on the first day of the Initial Term and on each anniversary thereafter. All fees payable under this Agreement are non-refundable.

## 11. Intellectual Property Rights

Certification Body 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 GreenBlue Trademarks, and the RMS Program Materials (collectively, the “RMS Intellectual Property”). Certification Body 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 this Agreement, the RMS Policies, or the Recycled Material Standard grants Certification Body any right, title, interest, or license in or to any of the RMS Intellectual Property. Certification Body will not use, copy, distribute, display, modify, or create derivative works of any RMS Intellectual Property or any Trademarks confusingly similar to the RMS Trademarks except as expressly authorized in this Agreement or in another written agreement between GreenBlue and Certification Body. The provisions of this Section 11 will, specifically and without limitation, survive the expiration or termination of this Agreement.

## 12. Limited Warranties; Disclaimers

12.1. GreenBlue represents and warrants to Certification Body that (a) it is the owner of all the intellectual property rights in the GreenBlue Trademarks and the RMS Program Materials or that GreenBlue has the right to license to Certification Body the use thereof in accordance with this Agreement; and (b) use by Certification Body of the GreenBlue Trademarks licensed to Certification Body pursuant to the Trademark License and the RMS Program Materials in the United States during the Term in accordance with this Agreement 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 AND THE LICENSED GREENBLUE TRADEMARKS 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 LICENSED GREENBLUE TRADEMARKS, 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 LICENSED GREENBLUE TRADEMARKS, OR THE RMS PROGRAM MATERIALS.



## 13. Indemnification

**13.1.** Certification Body 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 arise out of or relate to (i) Certification Body's (or any of its Affiliates' or Representatives') use of any of the RMS Program Materials in violation of this Agreement, (ii) any acts, omissions, findings, determinations, or decisions of Certification Body (or its Affiliates or Representatives) in connection with the RMS Certification Program offered or provided by Certification Body, (iii) any failure of Certification Body or its Affiliates to comply with the Recycled Material Standard, (iv) any failure of Certification Body (or its Affiliates or Representatives) to comply with the RMS Policies, or (v) any violation of law by Certification Body or any of its Affiliates or Representatives; or (b) alleging that any of Certification Body's Marks (or any other intellectual property provided by or on behalf of Certification Body or its Affiliates) or the GreenBlue Parties' use thereof in accordance with the provisions of this Agreement, infringe, misappropriate, or violate the intellectual property rights or proprietary rights of a third-party.

**13.2.** GreenBlue will indemnify and hold Certification Body harmless from and against any Losses which are suffered or incurred by Certification Body 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 the licensed GreenBlue Trademarks, or Certification Body's use thereof during the Term in accordance with the terms of this Agreement, 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 or the licensed GreenBlue Trademarks by Certification Body or its Affiliates or Representatives in violation of this Agreement; (2) use of any of the RMS Program Materials or the licensed GreenBlue Trademarks by Certification Body or Certification Body's Affiliates or Representatives outside of the United States; or (3) use of Infringing Material (as defined below) by Certification Body or Certification Body's Affiliates or Representatives after GreenBlue has modified or replaced such Infringing Material or terminated Certification Body'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 Certification Body to use the Infringing Material in accordance with the provisions of this Agreement; or (d) if none of the foregoing are reasonably available, require Certification Body, upon providing written notice to Certification Body, to cease use of the Infringing Material, in which event, Certification Body shall cease use of the Infringing Material.

**13.4.** If a party asserts a claim for indemnification under this Agreement (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 this Agreement (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. The provisions of this Section 13 will, specifically and without limitation, survive the expiration or termination of this Agreement.

**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 THIS AGREEMENT OR THE RMS PROGRAM, REGARDLESS OF WHETHER EITHER PARTY OR ANY OTHER PERSON HAS BEEN INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. THE PROVISIONS OF THIS SECTION 14 WILL, SPECIFICALLY AND WITHOUT LIMITATION, SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

## 15. Relationship Between the Parties

Nothing in this Agreement will be construed as creating any partnership, joint venture, employment relationship, or agency relationship in any way between GreenBlue and Certification Body. Neither GreenBlue nor Certification Body 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 this Agreement 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 this Agreement is a valid binding, legal obligation of each party, enforceable in accordance with its terms. Each individual signing this Agreement represents and warrants that he or she has been duly authorized to execute and deliver this Agreement on behalf of the party for whom he or she is signing.

**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 this Agreement.

**16.3. Notice.** All notices provided in connection with this Agreement will be in writing and delivered to the parties at the mailing addresses or e-mail addresses set forth on the signature page. 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 this Agreement 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.** This Agreement 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, this Agreement, 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, this Agreement 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 this Agreement.

**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 THIS AGREEMENT OR THE RMS PROGRAM AND THE PARTIES CONFIRM THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO THE PARTIES ENTERING INTO THIS AGREEMENT.

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

**16.7. Non-Waiver.** No waiver of any term or condition of this Agreement 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

this Agreement.

**16.8. Severability.** In the event that any provision of this Agreement 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) this Agreement to the extent necessary to cure (or if necessary, delete) such provision, and that the remainder of this Agreement that can be given effect without the benefit of such provision will be given effect.

**16.9. Non-Assignability; Binding Effect.** This Agreement is personal to Certification Body. Neither this Agreement nor any of Certification Body's rights or obligations will be sold, transferred, delegated, or assigned by Certification Body 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 this Agreement. Subject to the foregoing, this Agreement 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 this Agreement is intended, nor will be deemed, to confer any rights or remedies upon any person or legal entity other than Certification Body and the GreenBlue Parties.

**16.11. Entire Agreement.** This Agreement (including the RMS Policies) contains the entire agreement and understanding of the parties to this Agreement with respect to the transactions contemplated herein; and this Agreement (including the RMS Policies) supersedes 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 this Agreement that are not fully expressed herein.

## 17. Survival

Any termination, cancellation, or expiration of this Agreement notwithstanding, Sections 5, 7.3, 8.2, 8.3, 9, 11, 12, 13, 14, and 16, and any provisions which are by their terms intended to survive and continue, will survive and continue.

IN WITNESS WHEREOF, the parties hereto have caused this RMS Certification Body Agreement to be executed by their duly authorized representatives as of the date first written above.

**GreenBlue:**

**Certification Body:**

Green Blue Institute, Inc.

\_\_\_\_\_  
Certification Body Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Position/Title

\_\_\_\_\_  
Position/Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Address:**

**Address:**

GreenBlue  
ATTN: RMS Program  
600 East Water Street, Suite C  
Charlottesville, Virginia 22902

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

E-mail Address: [rms@greenblue.org](mailto:rms@greenblue.org)

**Email Address:**

\_\_\_\_\_

List of Exhibits

Exhibit A - Trademark Schedule

Exhibit B - RMS Certification Body Fee Schedule

# EXHIBIT A

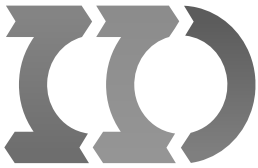
## Trademark Schedule

Last Update: July 9, 2021

Effective Date: \_\_\_\_\_

The RMS Trademarks include the following:

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



[END OF TRADEMARK SCHEDULE]

## EXHIBIT B

### RMS Certification Body Fee Schedule

Last Update: July 9, 2021

Effective Date: \_\_\_\_\_

During the Term, Certification Body will pay to GreenBlue the fees set forth below.

All fees are listed in US dollars.

- Annual Certification Body Administration Fee = \$2000 per year – waived for initial Term
- Certification Body Application Fee = \$500 – waived for initial Term
- RMS Trademark License Fee = \$0
- Auditor Training Fee = \$0 per training module per attendee (subject to change with notice)
- Legal Fees = \$1500 per document for review as described further below – waived for initial review of RMS Certification Body Agreement and Exhibits A & B

In the event that a certification body requests changes to any agreement within the RMS Program, the company will be charged a fee of \$1,500 to cover our legal fees necessary to review proposed changes.

[END OF RMS CERTIFICATION BODY FEE SCHEDULE]