



◆ Soil Enhancement and Carbon Sequestration Agreement

Contract Number:		
Landholder Name:		
Landholder Mailing Address:		
Best Contact Numbers:	Mobile:	Other:
Non Standard Terms:		

QUICK ELIGIBILITY CHECKLIST

Complete the following quick checklist to assess if your land may be eligible to be included in the **Prime Carbon Soil Enhancement and Carbon Sequestration Program**.

Landholders need to be able to answer yes to each of the following questions:

1. Is the land greater than 150 hectares?	Yes	No
2. Are you, or the entity you represent, the owner of the land or do you, or the entity you represent, have the right to perform activities on the Land?	Yes	No
3. Will you, or the entity you represent, continue to be the owner of the land or to have the right to perform activities on the land for the next five years?	Yes	No
4. The land has not been used for carbon sequestration for carbon credits.	Yes (has not been used)	No (has been used)

If any of the above questions resulted in a No answer please provide further information below:

Note: The above checklist is simply a tool to assist Landholders to quickly assess if their land may be eligible to be included in the **Prime Carbon Soil Enhancement and Carbon Sequestration Program**.

Prime Carbon reserves the right to decline any Offers, Agreements or Land at its discretion.

PARTIES: **PRIME CARBON PTY LTD, ACN 125 477 349** of
Number 4 The Strand, (PO Box 5600) Townsville, 4810
("Prime Carbon")

AND: **THE PARTY REFERRED TO AS THE LANDHOLDER IN THE SCHEDULE
HERETO**
("the Landholder")

RECITALS

- A. Prime Carbon is in the business of promoting carbon abatement, offsetting and sequestration projects in North Queensland, and in doing so:
- (1) Designs and facilitates carbon sequestration and other greenhouse gas abatement and offsetting projects;
 - (2) Assists in the creation and management of commodities arising from the sequestration of atmospheric carbon and abatement and offsetting of greenhouse gases; and
 - (3) Assists in the registration and marketing of those commodities.
- B. The Landholder wants to undertake activities to improve the quality of its soils in a manner that sequesters carbon and abates greenhouse gases and that potentially creates a marketable commodity in the nature of carbon offsets or credits.
- C. Prime Carbon is willing to assist the Landholder in the improvement of the quality of the soil on the land, the sequestration of carbon and abatement of greenhouse gases and the creation of a potentially marketable commodity in the nature of carbon offsets or credits under the terms and conditions of this agreement.

THE PARTIES AGREE:

1. DEFINITIONS AND INTERPRETATION

- 1.1 Capitalised terms in this Agreement have the meaning set out hereunder:
- (a) **Active Units** means units of Environmental Product able to be listed on the National Environment Registry (NER) or another registry of such units;
 - (b) **Activities** means the activities set out in clause 7 and/or as prescribed in writing by Prime Carbon during the Term;

- (c) **Agreement** means this Agreement;
- (d) **Adjustment Notice** has the meaning given in clause 15.1(b);
- (e) **Balance Fee** means the balance of the Fee referred to in item 7(b) of the Schedule;
- (f) **Business Day** means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment is to be made;
- (g) **Credit Unit** means the credit given by Prime Carbon in CO₂e for each tonne of Total Carbon sequestered or to be sequestered or greenhouse gas abated or to be abated by the Landholder, as determined by Prime Carbon in accordance with this Agreement; (Prime Carbon may from time to time elect to differentiate the Credit Units created by using Unit descriptors such as Australian Removal Unit (ARMU).
- (h) **Commencement Date** means the date on which the notice referred to in clause 5.2 is given by Prime Carbon to the Landholder;
- (i) **Deposit** means the amount stated in item 7(a) of the Schedule which forms part of the Fee;
- (j) **Environmental Product** means a commodity able to be listed on the NER or another recognised registry;
- (k) **Fee** means the amount stated in item 7(c) of the Schedule which includes the Deposit and Balance Fee;
- (l) **Land** means the land described in item 2 of the Schedule;
- (m) **Landholder** means the entity described in item 1(b) of the Schedule;
- (n) **NER** means the National Environment Registry operated by the National Environment Registry Pty Ltd;
- (o) **NER Rules** means the rules propagated from time to time by the National Environment Registry Pty Ltd to govern the use by participants of the NER;
- (p) **NSX** means the National Stock Exchange of Australia;
- (q) **Product** means the products set out in items 4 and 5 of the Schedule or such alternate products approved by Prime Carbon from time to time that are required to be applied to the Land under clause 7.2(e);
- (r) **Protocol** means the Operations Manual for the Assessment and Validation of Soil Carbon Reserves adopted by Prime Carbon from time to time.

- (s) **Sale Commission** means a commission at the percentage shown in item 8(b) of the Schedule of the \$ value of the gross GST exclusive consideration agreed to be paid or given to the Landholder by a third party for the purchase (or retirement from registration) of any Credit Units;
- (t) **Stakeholder** means the stakeholder referred to in item 6 of the Schedule;
- (u) **Term** is the period of five (5) calendar years from the Commencement Date;
- (v) **Tillage** means turning the soil over (effecting anaerobic and aerobic activity). Seeding runs and bed-forming are not Tillage whilst the incorporation of green matter/crop residue is Tillage; and
- (w) **Total Carbon** means carbon determined by way of soil analysis to be present in the Land by mass in the top 150mm of soil of the Land.

1.2 In this Agreement, unless the context requires another meaning, a reference:

- (a) to the singular includes the plural and vice versa;
- (b) to a gender includes all genders;
- (c) to a document is a reference to that document (including any Schedules and Annexures) as amended, consolidated, supplemented, novated or replaced;
- (d) to an agreement includes any undertaking, representation, deed, agreement or legally enforceable arrangement or understanding whether written or not;
- (e) to a party means a party to this Agreement;
- (f) to an item, Recital, clause, Schedule or Annexure is to an item, Recital, clause, Schedule or Annexure of or to this Agreement;
- (g) to a notice means a notice, approval, demand, request, nomination or other communication given by one party to another under or in connection with this Agreement;
- (h) to a person (including a party) includes:
 - (i) an individual, company, other body corporate, association, partnership, firm, joint venture, trust or government agency;
 - (ii) the person's successors, permitted assigns, substitutes, executors and administrators; and
- (i) to a law includes any legislation, judgment, rule of common law or equity or rule of any applicable exchange, and is a reference to that law as amended, consolidated, supplemented or replaced and includes a reference to any regulation, by-law or other subordinate legislation;

- (j) to time is to Townsville time.
- (k) The words “including” or “includes” means “including, but not limited to”, or “includes, without limitation” respectively.
- (l) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (m) Headings are for convenience only and do not affect interpretation of this Agreement.
- (n) If a period must be calculated from, after or before a day or the day of an act or event, it must be calculated excluding that day.
- (o) This Agreement should not be construed adversely to a party only because that party prepared it.

2. DEPOSIT

- 2.1 The Landholder shall pay the Deposit to Prime Carbon immediately upon formation of this Agreement.

3. PROVISION OF INFORMATION

- 3.1 The Landholder must forthwith upon formation of this Agreement provide to Prime Carbon the information listed in item 3 of the Schedule.

4. PRODUCT

- 4.1 The Landholder shall within 14 days of the date of formation of this Agreement:
 - (a) purchase the Product; and
 - (b) provide to Prime Carbon such evidence as Prime Carbon requires of:
 - (i) proof of payment for purchase of the Product; and
 - (ii) delivery thereof to the Landholder’s principal storage premises that service the Land.

- 4.2 The Landholder is not to apply the Product until after the Commencement Date.

5. BASELINE MEASUREMENT, CREDIT UNIT ALLOCATION, MEASUREMENT AND ADJUSTMENT

- 5.1 Following the receipt by Prime Carbon of proof of payment and delivery of the Product as provided for in clause 4 above, Prime Carbon will by its representatives or agents inspect the

Land and determine by soil analysis the baseline measurement of the Total Carbon present in the soils on the Land. The Landholder shall provide all reasonable assistance to the contractors of Prime Carbon for that purpose.

- 5.2 Prime Carbon will notify the Landholder when it has completed the verification of the base line measurement of the Total Carbon in the soil of the Land.
- 5.3 Subject to the results of that first soil analysis Prime Carbon will allocate to the Landholder Credit Units for each tonne of Total Carbon which Prime Carbon predicts in its sole and absolute discretion can be generated and sequestered in the soils on the Land by performing the Activities.
- 5.4 The allocation of Credit Units in accordance with clause 5.3 will be a total of half of the number of an estimate of the increase in the Total Carbon in the soil of the land calculated on the basis that an increase of one per cent (1%) in the percentage of Total Carbon on a weight per volume basis present in the top one hundred and fifty millimetres (150mm) of the soil profile of the Land shall equate to 15 tonnes of Carbon generated and to 55 tonnes of CO_{2e};
- 5.5 Increases in Total Carbon will then be measured by Prime Carbon or its nominated representatives, agents or contractors by means of soil analysis:
- (a) with the baseline measurement being undertaken in accordance with clause 5.1;
 - (b) then approximately 12 months after the Date of Commencement;
 - (c) then approximately 24 months after the Date of Commencement;
 - (d) then approximately 36 months after the Date of Commencement; and
 - (e) then on or about the fifth anniversary of the Commencement Date.
- 5.6 Prime Carbon may in its absolute discretion allocate such additional Credit Units as it considers may be appropriate and arise from the abatement of greenhouse gases as a result of the conduct of the Activities by the Landholder on the Land, in addition to the Credit Units allocated for increase in Total Carbon in the soil of the Land. However at no time shall the number of Credit Units issued exceed half of the total number of the tonnes of CO_{2e} calculated to be sequestered in the soil of the land.
- 5.7 The Landholder hereby irrevocably and without qualification or reservation grants to Prime Carbon the right to contribute any amount of carbon calculated to have been sequestered in excess of the number of Credit Units issued to a pool of carbon maintained by Prime Carbon for the purposes of managing a reserve capacity to the pool of stored carbon used to generate Credit Units to be sold under this agreement.
- 5.8 The methods and procedures to be utilised by Prime Carbon in respect to the matters referred to in clauses 5.3, 5.4, 5.5 and 5.6 shall be determined by Prime Carbon in its sole and absolute discretion. The methodology and procedures shall be set out by Prime Carbon in documentation available for inspection by the Landholder following written request.
- 5.9 The Landholder hereby irrevocably and without qualification or reservation, grants to Prime Carbon and to its representatives and agents, the right to enter upon the Land for any purpose associated with this Agreement and in particular the measurement of Total Carbon and the monitoring of the Activities.

6. REGISTRATION OF CREDIT UNITS

- 6.1 Prime Carbon will use its best endeavours, within 14 days from the Commencement Date, to cause the registration of the Credit Units allocated under clause 5.3 on the NER with “pending” status.
- 6.2 Upon confirmation by electronic search of the NER that the Credit Units referred to in clause 6.1 have been registered with “pending” status, the Stakeholder shall release the Balance Fee to Prime Carbon.

7. THE ACTIVITIES

- 7.1 The Landholder shall conduct the Activities on the Land as prescribed by this clause and/or as otherwise required in writing by Prime Carbon for the Term.
- 7.2 For the purposes of this Agreement the Landholder shall undertake the following:
- (a) prior to the Commencement Date the Landholder shall provide to Prime Carbon or its nominee, all information and documentation as required by Prime Carbon to calculate the average weight of nutrient added to the Land during the period of two years prior to the Commencement Date (or in the event of climate anomalies during that period during such other period as Prime Carbon considers fairly indicates the long term annual average of nutrient added to the Land prior to the Commencement Date);
 - (b) prior to the Commencement Date the Landholder shall advise Prime Carbon in writing as to the last date upon which the soil of the Land was tilled;
 - (c) as and from the Commencement Date reduce the total nutrient added to the Land by not less than thirty percent (30%) by weight;
 - (d) as and from the Commencement Date not till the soil on the Land more than once per year. Annual Tillage shall be to a maximum depth of not more than two hundred millimetres (200mm);
 - (e) as and from the Commencement Date apply the Product as follows:
 - (i) apply a microbially enhanced liquid bio-fertiliser as chosen by the Landholder from the Products referred to in item 4 of the Schedule. The chosen bio-fertiliser shall be applied annually at the times and in the quantities nominated in item 4 of the Schedule and/or as otherwise reasonably directed by Prime Carbon; and
 - (ii) shall use upon the Land a minimum of two (2) soil conditioning and inoculation processes as set out in item 5 of the Schedule at the times and in the quantities set out in item 5 of the Schedule and/or as reasonably directed by Prime Carbon in writing.

8. APPLICATION OF PRODUCT

- 8.1 The Landholder will commence the first application of the Product to the Land in accordance with clause 7.2(e) as soon after the Commencement Date as it is practicable to do so.
- 8.2 The Landholder must provide to Prime Carbon such proof as it requires from time to time of the application of the Product in accordance with clause 7.2(e) including details of the quantity and method of application. Prime Carbon may undertake such measures as it requires to verify the accuracy of the information provided by the Landholder to it regarding the application of the Product. The Landholder must provide to Prime Carbon every reasonable assistance as it requires to verify that application of the Product in accordance with clause 7.2(e).

9. REGISTRATION OF CREDIT UNITS

- 9.1 The Landholder hereby irrevocably authorises Prime Carbon to note the Credit Units as Environmental Product units on the NER with “pending” status and (subject to clause 9.3) to register those Credit Units as Active Units on the NER in accordance with clause 9.2.
- 9.2 Upon Prime Carbon being satisfied that the first required application of the Product has been undertaken by the Landholder in accordance with clause 7.2(e) Prime Carbon will (subject to clause 9.3) use its best endeavours to cause the Credit Units noted as Environmental Product units with “pending” status on the NER to be registered as Active Units on the NER.
- 9.3 The Landholder may by notice in writing to Prime Carbon given before the Commencement Date require Prime Carbon to postpone the registration of some or all of the Credit Units on the NER as Active Units for sale for up to twelve (12) months.

10. NER RULES, APPOINTMENT OF PRIME CARBON AS BROKER AND RELEASE OF INFORMATION

- 10.1 The Landholder:
- (a) agrees that the Landholder will be bound by the NER Rules and in particular in the rules that relate to the noting and registration of the Credit Units as Environmental Product units on the NER; and
 - (b) hereby appoints Prime Carbon as the Landholder’s Broker and Authorised Representative to deal with the Credit Units registered as Active Units on the NER for the Term, which appointment may only be revoked by the Landholder during the Term, following the proper and lawful termination of this Agreement by the Landholder pursuant to clause 18.
- 10.2 The Landholder consents to Prime Carbon releasing any private information of the Landholder held by Prime Carbon that is required to be released by it to the NER or to any authority that regulates a trading exchange upon which the Credit Units are listed.

11. SALE OF CREDIT UNITS

11.1 The Landholder:

- (a) acknowledges and hereby agrees (subject to clause 9.3) that on registration of the Credit Units as Active Units for sale on the NER, those Credit Units may be sold without further reference to (or the further approval of) the Landholder at or above the price nominated in item 8(a) of the Schedule;
- (b) agrees that upon the sale of, or agreement to retire the Credit Units (whether that sale or agreement is effected or facilitated by NER or Prime Carbon or not):
 - (i) to pay funds equivalent of 75% of the consideration received on that sale or agreement into a trust account operated by Prime Carbon, which shall be held by Prime Carbon as trustee pursuant to clause 12; and
 - (ii) Prime Carbon shall be entitled to receive the Sale Commission in respect of the sale of those Credit Units; and
- (c) agrees that if the Credit Units are sold or retired by agreement other than by means of a transaction facilitated by Prime Carbon, the Landholder must inform Prime Carbon of that sale or retirement and of any information regarding that transaction reasonably required by Prime Carbon.

12. FUNDS HELD IN TRUST

12.1 Any funds received by Prime Carbon pursuant to clause 11.1(b)(i) shall be dealt with as follows:

- (a) the funds shall be paid into a trust account operated by Prime Carbon (or operated by an entity nominated by Prime Carbon which accepts an appointment to hold the funds pursuant to this Agreement) that complies with the provisions of the Trust Accounts Act (Qld) 1973, or with the requirements of other legislation that provides at least an equivalent regime for the protection of trust funds;
- (b) the holder of those funds is to pay to Prime Carbon from those funds:
 - (i) the Balance Fee, or that part thereof that has not been paid; and
 - (ii) the Sale Commission, or that part thereof that has not been paid.
- (c) if the holder of those funds believes on reasonable grounds that the Landholder has failed to undertake any of the Activities during the period of two (2) years following the Commencement Date and receives evidence of costs incurred by Prime Carbon to remediate the Total Carbon uptake in the soil of the Land, then Prime Carbon shall be reimbursed those costs from the funds held;
- (d) if the holder of those funds believes on reasonable grounds that the Landholder has failed to undertake any of the Activities during the period of two (2) years following the

Commencement Date and the holder of the funds receives a notice from Prime Carbon that any of the Credit Units sold have been the subject of an Adjustment Notice, then the holder shall pay to the purchaser of those Credit units from the funds held, 75% of the amount paid for the Credit Units reduced by that Adjustment Notice;

- (e) the holder of those funds shall be entitled to pay to itself firstly from any interest arising from investment of the funds or if insufficient, from the funds held, its reasonable fees and out of pocket costs incurred in connection with holding those funds; and
- (f) sixty (60) months after the Commencement Date, the holder of the funds shall pay the balance funds held by it that are not the subject of any notice or dispute, to the Landholder.

12.2 The parties hereby authorise and direct the holder of the funds referred to in clause 12.1 to invest those funds in an interest bearing account, subject to the requirements of the Trusts Account Act (Qld) 1973 being satisfied. The parties shall provide to the holder of the funds their tax file numbers and any further authority or information reasonably required by the holder of the funds in connection with that investment. Interest earned on that investment of the funds shall, subject to any payments made under sub-clauses 12.1(d) and 12.1(e), be belong equally to Prime Carbon and the Landholder and shall be paid to them at the time it pays the balance of the funds in accordance with sub-clause 12.1(f).

13. STATUS OF CREDIT UNITS ASSESSED BY PRIME CARBON

13.1 The Landholder acknowledges that:

- (a) the Credit Units are assessed and allocated by Prime Carbon under this Agreement in accordance with a Protocol developed by Prime Carbon that provides accounting measures for the assessment of carbon sequestration on allocated land and abatement of greenhouse gases emitted from agricultural production as contemplated under Article 3.4 of the Kyoto Protocol;
- (b) there has not been international agreement on standard measures for the accounting of carbon sequestration on agricultural land and abatement of greenhouse gases emitted from agricultural production under article 3.4 of the Kyoto Protocol;
- (c) The Carbon Pollution Reduction Scheme: Australia's Low Pollution Future White Paper (the policy of the Commonwealth Government of Australia in relation to carbon pollution reduction), which follows the Green Paper, does not provide a framework for:
 - the adoption of standard accounting measures for the assessment of carbon sequestration on agricultural land,
 - the abatement of greenhouse gases emitted from agricultural production,
 - the trading of the Environmental Products (such as Credit Units) arising from the sequestration of carbon or the abatement of green house gases as a result of agricultural production practices,

In addition, any market for the Credit Units is a voluntary market that operates outside the current Australian Commonwealth Government policy framework for carbon pollution reduction;

- (d) the Landholder relies on its own investigation of the marketability and value of the Credit Units and does not rely on any comments, advices or representations of Prime Carbon in relation to the possible marketability or value of the Credit Units;
- (e) whilst Prime Carbon believes on reasonable grounds that the Protocol it has developed and adopted for the assessment of Credit Units is sound and within the framework contemplated by Article 3.4 of the Kyoto Protocol and that Protocol is acceptable to the NER for the purposes of registering Credit Units issued by Prime Carbon with the NER, Prime Carbon makes no warranty that the Credit Units will be accepted for noting or registration on the NER as Environmental Product Units with either “pending” or “active” status;
- (f) the Landholder bears the risk that Credit Units assessed and allocated by Prime Carbon under this Agreement are not accepted for noting or registration on the NER for either “pending” or “active” status, subject always to the provisions of clause 13.2; and
- (g) a fundamental tenant that underlies any voluntary market for carbon credits or similar commodities is that a credit arising for the sequestration of carbon can only ever be issued or sold once in respect of a particular sequestration activity on particular land.

13.2 In the event that the Credit Units allocated by Prime Carbon under clause 13.1 are not accepted for noting on the NER with “pending” status as an Environmental Product units then:

- (a) the Deposit shall in any event be retained by Prime Carbon in consideration for the provision of a license of its intellectual property in the soil enhancement regime provided for in the Activities under this Agreement, the verification by it of the Total Carbon in the soil of the Land and the administrative and other costs incurred by it as a result of entering into this Agreement; and
- (b) the Balance Fee shall be refunded to the Landholder.

13.3 In the event that Credit Units that have been noted on the NER with “pending” status, are not ultimately registered as Active Units, then:

- (a) in the event that results from the failure by Prime Carbon to make proper application to register the Credit Units on the NER, then the liability of Prime Carbon shall be limited to liquidated damages of \$0.10 per Credit Unit, which the parties acknowledge is the component of the Fee attributable to that task and the parties agree that is as genuine estimate of the damages the Landholder would incur in having a third party certifier attend to that task; and
- (b) in any other event, Prime Carbon shall have no liability to the Landholder for that failure to have the Credit Units registered in the NER.

14. OWNERSHIP OF CREDITS

- 14.1 Ownership of the Credit Units shall vest in the Landholder upon their creation.
- 14.2 The Landholder hereby charges the Credit Units with the Landholder's obligation to pay the Fee, any Sale Commission and with payment to Prime Carbon of all other costs charges or other payments required to be paid by the Landholder to Prime Carbon under this Agreement.

15. ADJUSTMENT OF CREDIT UNITS

- 15.1 If pursuant to clause 5 or 8, Prime Carbon determines that the Total Carbon in the soil of the Land has not increased to the extent predicted by Prime Carbon pursuant to clause 5 then:
- (a) the Landholder shall adjust the performance of the Activities in such reasonable manner that does not materially increase the cost to the Landholder of performing the Activities, as is prescribed in writing by Prime Carbon; and/or
 - (b) if that increase in Total Carbon in the soil does not occur as a result of the failure of the Landholder to properly undertake the Activities then Prime Carbon may in its sole and absolute discretion adjust the quantum of Credit Units allocated to the Landholder pursuant to clause 5 by way of a notice in writing setting out such adjustment ("the Adjustment Notice").

16. LANDHOLDERS ASSISTANCE

- 16.1 The Landholder shall at all times co-operate and provide all necessary assistance to Prime Carbon and/or its representatives, contractors and agents in respect to the validation, verification and monitoring of the Activities and in respect to the measurement of Total Carbon including performance by Prime Carbon of the procedures referred to in the Prime Carbon "Operations Manual for the Assessment and Validation of Soil Carbon Reserves" and/or such other manuals adopted by Prime Carbon from time to time during the Term.

17. LANDHOLDER WARRANTIES AND UNDERTAKINGS

- 17.1 The Landholder warrants that:
- (a) it is and will continue to be for the Term in lawful occupation of the Land;
 - (b) it is entitled to grant to Prime Carbon and its representatives, agents and contractors the right of lawful access to the Land and to perform the rights and obligations of Prime Carbon as they relate to the Land;
 - (c) it has the right to perform the Activities on the Land and that there is no legal or other impediment to it doing so;

- (d) it has the power and authority and is entitled to enter into this Agreement, to perform the Activities on the Land and to receive Credit Units issued in respect of Activities on the Land and (where required) has obtained all necessary approvals and entered into all necessary agreements required to do so;
- (e) all information provided by it to Prime Carbon is true, complete and accurate and has been obtained and provided lawfully;
- (f) it has the full right and entitlement to disclose to Prime Carbon the information required to be disclosed under this Agreement; and
- (g) it has not entered into any prior agreement in respect to the sequestration of carbon upon the Land or in respect to the sale of carbon offsets arising therefrom.

17.2 During the term of this Agreement the Landholder shall not, directly or indirectly in any circumstances whatsoever, enter into any other agreement, in respect to carbon sequestration upon the Land, without the consent in writing of Prime Carbon which shall not be unreasonably refused.

18. DEFAULT AND TERMINATION

18.1 Subject to clause 20, if the Landholder fails to perform any or all of the Activities or is otherwise in breach of its obligations and responsibilities under this Agreement then:

- (a) Prime Carbon may give written notice to the Landholder setting out the failure and/or breach and requiring rectification of such failure and/or breach to the satisfaction of Prime Carbon following inspection by Prime Carbon of the Land; and
- (b) if the Landholder fails to rectify the breach as specified in the notice within a reasonable time, Prime Carbon shall be entitled to terminate this Agreement forthwith, such termination to be immediately effective upon the delivery of a Notice of Termination to the Landholder.

18.2 Upon termination of this Agreement by Prime Carbon by Notice of Termination:

- (a) Prime Carbon shall be fully released from any further obligation under this Agreement; and
- (b) Prime Carbon may retire (i.e. extinguish) the Credit Units registered on the NER.

18.3 If Prime Carbon commits a fundamental breach of an essential term of this Agreement then:

- (a) the Landholder may give written notice to Prime Carbon setting out the breach and requiring rectification of that breach; and
- (b) if Prime Carbon fails to rectify the breach within a reasonable time, the Landholder shall be entitled to terminate this Agreement forthwith, such termination to be

immediately effective upon the delivery of a Notice of Termination to Prime Carbon Prime Carbon.

19. LIMITATION OF LIABILITY AND DAMAGES

- (a) Without limiting the operation of clause 13.3 any damages payable or alleged to be payable by Prime Carbon to the Landholder in respect of any matter arising directly or indirectly out of the performance, non-performance and/or breach of this Agreement by Prime Carbon (irrespective of whether such damage is direct or consequential) shall not exceed and shall be limited to the quantum of the monies payable by Prime Carbon to the Landholder for the acquisition of Credit Units pursuant to the terms of this Agreement.
- (b) Without limiting the generality of sub-clause (a) above, the limitation of damages payable by Prime Carbon applies to any and all claims by the Landholder against Prime Carbon irrespective of whether such claims arise in tort (including without limitation negligence), contract or otherwise, and irrespective of whether such claim is compensatory, founded upon restitution or arises by way of contribution, and this clause 19 applies to any claim arising out of the use by the Landholder of the Products.
- (c) Notwithstanding the provisions of sub-clauses (a) and (b) of this clause, Prime Carbon shall not be liable for any damage suffered by the Landholder, whether direct or indirect, special or consequential, or loss of profits suffered by the Landholder as a result of performing the Activities and/or entering into this Agreement including:
 - (i) any change in market conditions;
 - (ii) any technical problems with computer hardware or software;
 - (iii) any breach by Prime Carbon of this Agreement save to the extent that damages are limited pursuant to sub-clauses (a) and (b) of this clause;
 - (iv) reliance upon any advice, report, manual provided by Prime Carbon or its representatives or agents; and
 - (v) entering into any contracts, agreements or arrangements with third parties in reliance on representations made by or on behalf of Prime Carbon.

20. DISPUTE RESOLUTION

- 20.1 Subject to sub-clause (h) of this clause, if there is a dispute between Prime Carbon and the Landholder in respect to the interpretation of this Agreement or in respect to any fact, matter or thing arising pursuant to the performance thereof, then such dispute shall be dealt with in the following manner:
- (a) the party maintaining that there is a dispute shall serve upon the other party a notice in writing setting out the nature of the dispute (“the Dispute Notice”);

- (b) within fourteen (14) days of the receipt of the Dispute Notice by the other party, the parties by their representatives, will consult for the purposes of resolving the dispute;
- (c) if the dispute is not resolved within thirty (30) days of the receipt of the Dispute Notice by the other party, the party which delivered the Dispute Notice shall refer the dispute to a mediator to be agreed to by the other party, or in default of such agreement to a mediator appointed by the President of the Queensland Law Society;
- (d) any mediator appointed pursuant to sub-clause (c) above shall consult with the parties so as to establish a timetable for mediation of the dispute;
- (e) the parties will co-operate fully with the mediator in respect to time, place and venue for mediation of the dispute and in respect to the provision of documentation to the mediator;
- (f) no resolution of the dispute pursuant to this clause shall be enforceable by either party unless set out in writing and duly executed by both parties;
- (g) a party shall not be entitled to commence legal proceedings in respect to the subject matter of a dispute until conclusion of the mediation process set out above as certified by the mediator;
- (h) the provisions of sub-clauses (a) to (g) inclusive shall not prevent a party from commencing legal proceedings for the purpose of:
 - (i) enjoining or preventing an injury or threatened injury to person, property or reputation; and
 - (ii) enforcing the payment of sums due and owing to a party under this agreement; and
- (i) the parties may avoid the requirements of this clause by written variation in accordance with clause 21.

21. VARIATION

21.1 This Agreement shall not be varied unless by instrument in writing signed by both parties.

21.2 If Prime Carbon determines that a variation to this Agreement is reasonably required for any reason whatsoever, including the need for business efficacy and/or the need for this Agreement and the conduct of the parties thereunder to comply with the NER Rules or its contractual obligations with the operator of the NER, then Prime Carbon will serve upon the Landholder, a document in writing setting out the variation proposed to this Agreement ("Notice of Variation").

21.3 If the Landholder does not sign the Notice of Variation within thirty (30) days of service thereof, then Prime Carbon shall be entitled to serve a further notice in writing upon the

Landholder warning that this Agreement may be terminated unless the Notice of Variation is signed within fourteen (14) days of the date of such further notice.

- 21.4 If the Landholder does not sign the Notice of Variation within fourteen (14) days of the date of service of the further notice referred to in clause 21.3 above, then Prime Carbon may terminate this Agreement by Notice of Termination and the provisions of clause 18 shall apply.

22. WAIVER

- 22.1 The failure by a party to this Agreement to enforce any provision of this Agreement or to act upon a breach by the other party of such provision, shall not constitute a waiver of the rights and entitlements of that party arising pursuant to this Agreement in respect to such breach or in respect to any future breach of such provision including the breach not acted upon.

23. NOTICES AND CERTIFICATES

- (a) Any notice required to be delivered, given or served by a party under this Agreement shall be validly delivered, given or served by delivery, by post, by facsimile transmission and/or by e-mail to the addresses of the other party set out in item 1 of the Schedule.
- (b) A certificate issued by Prime Carbon signed by a director of Prime Carbon shall be prima facie evidence of any fact, matter or circumstance referred to therein.

24. COUNTERPARTS

- 24.1 This Agreement may be executed in counterpart or by exchange of facsimile or email transmission of signed copies.

25. GST

- (a) Terms defined in the GST Act have the same meaning when used in this clause or in the definition of "GST Amount", unless expressly stated otherwise.
- (b) Unless expressly stated otherwise, any sum payable or amount used in the calculation of a sum payable under this Agreement has been determined without regard to GST and must be increased on account of any GST payable under this clause.
- (c) If any GST is payable on any taxable supply made under this Agreement by to Prime Carbon, then the Landholder must pay the GST Amount to Prime Carbon on the earlier of:
- (i) the time of making payment of any monetary consideration on which the GST is calculated; and

- (ii) the issue of an invoice relating to the taxable supply.
- (d) The amount recoverable on account of GST under this clause by Prime Carbon will include any fines, penalties, interest and other charges incurred as a consequence of late payment or other default by the Landholder.
- (e) If either party is required to pay, reimburse or indemnify the other for the whole or any part of any cost, expense, loss, liability or other amount that the other party has incurred or will incur in connection with this Agreement, the amount must be reduced by the amount for which the other party can claim an input tax credit, partial input tax credit, or other like offset.

26. JURISDICTION AND LAW

- (a) This Agreement shall be governed by the laws applicable in the State of Queensland; and
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Queensland.

27. INVALID OR UNENFORCEABLE PROVISIONS

27.1 If a provision of this Agreement is invalid or unenforceable in a jurisdiction then:

- (a) it is to be read down or severed in that jurisdiction to the extent of the invalidity or unenforceability; and
- (b) that fact does not affect the validity or enforceability of that provision in another jurisdiction or the remaining provisions.

28. FORCE MAJEURE

- (a) A party will not be liable for any failure or delay in the performance of its obligations under this Agreement if that failure or delay is due to a Force Majeure.
- (b) Any party who is, by reason of Force Majeure, unable to perform any obligation or condition under this Agreement must notify the other party as soon as possible specifying:
 - (i) the cause and extent of such non-performance;
 - (ii) the date of commencement of non-performance; and
 - (iii) the means proposed to be adopted to remedy or abate the Force Majeure.

- (c) A party who is, by reason of Force Majeure, unable to perform any obligation or condition under these Rules must:
 - (i) use all commercially reasonable endeavours to remedy or abate the Force Majeure as quickly as possible;
 - (ii) resume performance as quickly as possible after cessation of the Force Majeure; and
 - (iii) notify the other party when the Force Majeure has terminated or abated to an extent which permits resumption of performance to occur.

29. ENTIRE AGREEMENT

29.1 This Agreement and any other documents referred to in this Agreement or executed in connection with this Agreement is the entire agreement of the parties about the subject matter of this Agreement and supersedes all other representations, negotiations, arrangements, understandings or agreements and all other communications.

30. ASSIGNMENT

30.1 The Landholder acknowledges that Prime Carbon shall have the ability to assign the benefit of this Agreement to any other person and that such assignment shall be effective upon written notice of the same being provided to the Landholder.

SCHEDULE

All sections in this Schedule must be completed prior to signing.

1. (a) PRIME CARBON DETAILS			
Address:	Number 4 The Strand, Townsville QLD 4811, Australia		
Postal Address:	PO Box 5600, Townsville QLD 4811, Australia		
Phone:	+61 7 4772 5431		
Facsimile:	+61 7 4774 6338		
E-mail:	enquiries@primecarbon.com.au		
1. (b) LANDHOLDER DETAILS			
What name will the Agreement be in:	(the Landholder)		
Landholders ABN:		Landholders ACN:	
Property Name: and Address (if applicable):	State: _____		Postcode: _____
Name of the Contact Person:	(Contact Person)		
Contact Person's Postal Address:	State: _____		Postcode: _____
Contact Person's Phone:	Phone: _____	Fax: _____	Mobile: _____
Contact Person's E-mail Address:			

2. SITE DETAILS - THE 'LAND'

Total Hectares				Ha. One ha = 2.47 acres 100 acres is $(100/2.47) = 40.48$ ha
Shire				
Property Name	Lot		Plan	
Property Name	Lot		Plan	
Property Name	Lot		Plan	
Property Name	Lot		Plan	
Property Name	Lot		Plan	
Property Name	Lot		Plan	
Property Name	Lot		Plan	
Property Name	Lot		Plan	
Specify any conditions of entry to the property/properties or other relevant information				

3. INFORMATION TO BE PROVIDED BY LANDHOLDER AS PER CLAUSE 7

<p>If readily available, please provide details of the average weight and type of bagged nutrient/fertiliser applied to the Land (if any).</p>	<p>Average Weight: _____ Over the past: _____ years (minimum 2 years)</p>
<p>When the Land was last Tilled (if applicable).</p>	<p>Month: _____ Year: _____</p>
<p>History of Land Use over the past two years, including details of crops (if land used for cropping).</p>	
<p>Planned Land Use over the future two years. Including details of crops ...if land used for cropping. <i>Note there is no restriction on future land use except as detailed in Clause 7.</i></p>	

4. LIST OF APPROVED BIO-FERTILISER PRODUCTS

Products chosen from the list of Approved Products and Processes published by Prime Carbon Pty Ltd from time to time.

5. LIST OF APPROVED SOIL CONDITIONERS AND INOCULANTS

Products chosen from the list of Approved Products and Processes published by Prime Carbon Pty Ltd from time to time.

6. STAKEHOLDER DETAILS – Boulton Cleary and Kern

<p>Boulton Cleary and Kern Trust Account Bank: BSB No: Account No:</p>	<p>National Australia Bank 084 970 50 899 2629</p>
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7. DEPOSIT

The deposit comprises the total of (a) i and (a) ii

(a) i.

The amount of deposit that is required at the time this Agreement is signed is **\$0.20 per Credit Unit**.

Estimate of Deposit (assume 55 Credit Units per hectare):

_____ hectares x 55 Credits per hectare x \$0.20 per Credit = \$_____

ii.

Baseline Measurement

How does the Landholder want the initial soil analysis to determine the carbon starting point to be undertaken:

The Landholder requests Prime Carbon to arrange for the initial "Baseline Measurement" to be undertaken. The Landholder understands that Prime Carbon will charge to the Landholder the full cost to have the measurement completed plus an additional 10% to cover Prime Carbon expenses.

The Landholder will arrange for the initial "Baseline Measurement" to be undertaken. The Landholder understands that the measurement must be undertaken by an independent person/company who is "Approved" by Prime Carbon and the measurement must be undertaken in accordance with Prime Carbon's Operations Manual.

(b) **Balance Fee:** 0.25c per Credit Unit allocated

(c) **Total Fee:** Deposit plus Balance Fee

8. OTHER

(a) Listing price for Credit Units: \$_____ per Credit Unit

The Landholder agrees that Prime Carbon can sell the Credit Units at or above the Listing price.

(b) Rate of Commission on Sale of Credit Units: 1%

