



Producer Agreement

Contract Number: _____

“**Producer**”: _____

Address: _____

Phone: _____ or _____

Email: _____ @ _____

“**Property**”: Tax ID #: _____

Field Names: _____

Initial # Acres Enrolled in Project: _____

“**Effective Date**”: _____

(Day Signed by Producer)

“**Term**”: Five (5) Program Years (subject to Section 4 below)

“**Producer Representative**”: _____

(Individual name if not provided above)

Contact Information: _____

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This **Producer Agreement** (this “**Producer Agreement**”) is a legally binding agreement entered into by the **Ecosystem Services Market Consortium** (“**ESMC**”), a Virginia nonstock corporation, and the Producer identified above (the “**Producer**”) for participation in a program (the “**Program**”) designed to generate marketable environmental credits based on reductions in emissions or removal of carbon dioxide or other greenhouse gases (on a carbon dioxide equivalent basis, or “**CO₂e**”) from the atmosphere (“**Environmental Benefits**”), at the Property identified above and represented electronically in the Ecosystem Services Market Consortium’s Eco-Harvest Producer Portal (the “**Portal**”). This Producer Agreement is subject to and incorporates General Terms and Conditions, and together the General Terms and Conditions and this Producer Agreement constitute a single agreement (this “**Agreement**”) with respect to the subject matter hereof. Capitalized terms used but not defined in this Producer Agreement shall have the meanings set forth in the General Terms and Conditions. The **General Terms and Conditions** may be found at this location: found [here](#). This Agreement and the information exchanged or developed under this Agreement are subject to ESMC’s **Producer Privacy Policy** found at this location: found [here](#); and the further requirements set forth below.



As further described in this Agreement, ESMC will undertake the administrative, logistical and regulatory measures intended to generate marketable environmental credits (“Credits”) on the basis of the Producer’s operational modifications that generate Environmental Benefits and the related data recorded in the Portal, and Producer will undertake operational modifications for the purpose of generating Environmental Benefits and Credits to be sold pursuant to the Program and receive compensation as described in this Agreement.

ESMC and Producer therefore agree as follows:

1. **Purpose:** The purpose of the Program is to collect and analyze data related to operations on the Property to assess and quantify the Environmental Benefits resulting from the implementation of agricultural management practices approved by ESMC. The Program will monetize the outcomes through the creation of Credits representing reportable carbon emissions reductions measured by defined units with respect to Environmental Benefits achieved under the Program (the “Credits”). Costs and revenues related to other types of credits or Environmental Benefits representing measured improvements in environmental impact (e.g., water use or water quality credits) are not intended to be addressed in the original form of this Agreement, but may be added to this Agreement by the parties in a written addendum agreed to by both parties.
2. **ESMC’s Responsibilities:** ESMC will perform some of its obligations under this Agreement through contractors, which will include an Implementation Partner working with the Producer to collect data relating to the Producer’s land management practices and site conditions. ESMC will analyze such data and additional data available from public sources or observations performed by contractors or ESMC personnel to evaluate the completeness and accuracy of the data and provide any necessary corrections. ESMC will then use the data to identify Environmental Benefits for purposes of generating Credits, and for the purpose of evaluating the opportunities for generating future credits under an addendum to this Agreement.
3. **Producer’s Responsibilities:** The Producer agrees to implement eligible agricultural management practices approved by ESMC and to use the Portal to accurately record data that documents Environmental Benefits associated with the Producer’s use of the Property. Producers will not pay to participate in the Program or be required to purchase any inputs to participate in the Program. Producer understands and acknowledges that participation in the Program requires compliance with ongoing requirements to enable ESMC to generate Credits and to sell them at favorable market values. Producer will fully cooperate with and allow ESMC representatives and its Implementation Partner(s) access to Producer’s farm and records, as needed, to complete the verification audit of data or Credits, and consents to the collection of data regarding the Producer’s operations using Implementation Partner(s) products and services and/or from general observation, public sources or aerial surveys.
4. **Term:** The initial Term of this Agreement commences on the Effective Date of this Agreement and terminates on the later of March 1 of the sixth full calendar year following the Effective Date or the date on which the parties’ respective obligations hereunder have been completed, subject to automatic



renewal for periods of five (5) years unless terminated as provided in the General Terms and Conditions. If the Producer has participated in ESMC's pilot program, the initial five-year term will include the calendar years during which the Producer participated in the pilot program.

5. **Sale and Credits:** The data recorded by the Producer and obtained by ESMC from other sources regarding Environmental Benefits are expected to generate Credits. Credits generated from such data will be deposited and maintained in an account that is managed by ESMC. ESMC will seek to arrange sales of Credits or license the rights to use Credits to third parties to effectuate the purposes of this Agreement, including providing compensation to the Producer. Producer shall not sell or license the Environmental Benefits recorded or documented through the Program, or any credits associated with such Environmental Benefits, except pursuant to the Program under this Producer Agreement or otherwise with ESMC's written consent.

6. **Compensation.**

(a) ESMC will seek to sell Credits on terms and conditions to be negotiated with third-party buyers of Credits. ESMC will not sell Credits at a price per Credit of less than \$15.00 (adjusted for inflation as provided below) without the prior written consent of the Producer. If ESMC is unable to sell Credits for \$15.00 or more per Credit (adjusted for inflation), ESMC will notify the Producer and seek Producer's consent to sell Credits generated from Producer's Environmental Benefits at prices that third parties have indicated they would be prepared to offer to buy Credits. ESMC cannot guarantee that Credits will be sold to third parties or that it will be able to sell Credits generated under this Agreement for a price at or above the minimum of \$15.00/Credit, adjusted for inflation.

(b) The proceeds of the sale of Credits shall be allocated five percent (5%) to ESMC and ninety-five percent (95%) to the Producer, after payment of any taxes on the sale or licensing of Credits as described in Section 10. ESMC's share of Credit sale proceeds will be used to pay Program costs or the costs of administering ESMC programs consistent with ESMC's charitable purposes and non-profit, tax-exempt status.

(c) ESMC expects to incur costs and expenses in the administration of the Program that will not be paid from ESMC's portion of the Credit sale proceeds described in Section 6(b). ESMC may receive from third parties or buyers of Credits cost recovery fees to cover ESMC's costs of performing its obligations under this Agreement, including program administration, the quantification, verification, and certification of Credits, coordinating soil sampling or arranging for the sale of Credits. Such reimbursements will not be deducted from or be considered part of the proceeds of Credit sales described in Section 6(b).

(d) ESMC will use reasonable commercial efforts to arrange for the sales or licensing of Credits generated by the Producer to third-party buyers on terms equivalent to sales or licensing of other credits generated by other producers. Producer acknowledges and agrees that third-party buyers will substantially control such purchases and sales, and that ESMC may not be able to arrange for sales or



licensing of the Producer's Credits or other producers' credits. The ability to sell or license Credits and the Credit prices will be determined by market demand and cannot be predicted or guaranteed by ESMC.

(e) Dollar figures that are expressly subject to adjustment for inflation pursuant to this Section 6 shall be adjusted annually by increasing such amounts by a percentage equal to the percentage increase in the Consumer Price Index calculated as follows: For each year, the percentage calculated by (a) subtracting the CPI for prior year from the CPI for the current year, (b) dividing the remainder by the CPI for the prior year, and (c) multiplying the result by 100 to obtain a percentage rounded to the nearest .01%. For purpose of this Agreement, "CPI" shall be the Consumer Price Index for All Urban Consumers, Midwest Region, all items less energy and food, not seasonally adjusted, using 1982-1984= 100.

7. **Representations of Producer.** The Producer understands that the Program and the value of Credits generated under the Program depend upon the integrity of the data and ESMC's ability to convert Environmental Benefits to Credits. Producer therefore confirms and represents to ESMC the factual matters set forth in the General Terms and Conditions, including that the Producer (a) is authorized to enter into this Agreement, (b) owns or leases the Property, (c) owns the data being uploaded into the ESMC Portal, (d) has provided or will provide accurate information to ESMC in connection with the Program, and (e) confirms that the Property is not subject to any agreement with another program that generates credits, offsets, assets, supply chain reporting, or claims related to soil carbon sequestration, changes in greenhouse gas emissions, improvements in water quality, and/or water use efficiencies that could conflict with the creation of or result in double counting of the Credits that are subject to the Program (excluding regulations, easements or contracts that restrict the Property to agricultural uses).

8. **Change of Ownership.** In the event that the Producer is the owner of the Property and intends to sell the Property, or is the tenant operator of the Property and expects to vacate the Property, Producer shall notify ESMC in writing of such changes at the Producer's earliest opportunity, and shall use reasonable commercial efforts to cause this Agreement to be assigned to and assumed by a subsequent owner or operator. If such assignment and assumption is not concluded, ESMC may terminate this Agreement as provided in the General Terms and Conditions.

9. **Data Privacy:** The Producer authorizes ESMC to utilize a Producer's data for the administration of the Program, including the generation and sale or licensing of Credits, for research purposes, and for the further development of the Program, the Portal, and associated technologies. Information that is personal to the Producer or identifies the Producer (such as e-mail address, data, and model results) is not sold or disclosed to third parties by ESMC, except when required to administer the Program or for other purposes described in ESMC's Producer Privacy Policy, which is available at this location: found [here](#). ESMC requires all its contractors, suppliers and vendors to execute confidentiality agreements for the purpose of maintaining the security and confidentiality of such information.

10. **Taxes.** The Producer shall be responsible for the payment of any sales, use, value-added, or other taxes based on the transfer to ESMC of the right to use Environmental Benefits to generate Credits.



ESMC shall be responsible for the payment from the proceeds of the sale of Credits of any such taxes due on the sale of Credits to third parties.

11. **Termination:** In the event of a material breach of this Agreement by either party, the other party may give notice to such breaching party of such breach. If the breaching party fails to cure such breach within thirty (30) days, the non-breaching party may terminate this Agreement by written notice. Any damages payable by either Party to the other Party for breach of this Agreement shall be limited to the value payable to the Producer from revenues received from the sale of Credits generated from the Environmental Benefits and sold or licensed by ESMC to a buyer prior to the date of such termination.

12. **Indemnification.** Under the General Terms and Conditions, each party indemnifies and agrees to defend and hold harmless the other party and certain third parties from losses, costs, claims, expenses or damages to the extent arising from such party’s breach of any provision of this agreement or otherwise arising from the gross negligence or willful misconduct of such party.

13. **Disputes:** Any disputes arising under this Agreement will be resolved by the Parties directly in discussions involving the principals or, if not resolved informally, shall be submitted to mediation before a neutral third party in the relevant state where the Producer’s operations occur. If such mediation is not successful, the Parties shall have the additional remedies available under the General Terms and Conditions.

14. **Third-Party Beneficiaries:** No person other than a party to this Agreement may make any claim against either party based upon a breach of this Agreement by either party.

15. **General Terms and Conditions.** Nothing in this Agreement shall be interpreted to limit the applicability of the General Terms and Conditions. Additional rights and responsibilities of the parties under this Agreement, and important limitations on such rights and obligations, are set forth in the General Terms and Conditions. This Agreement and the General Terms and Conditions shall be interpreted in a manner that allows compliance with both agreements to the extent possible, but in the event of inconsistency, the General Terms and Conditions shall prevail.

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Intending to be legally bound by this Agreement, including the General Terms and Conditions and ESMC policies incorporated into this Agreement, the respective parties have caused this Agreement to be signed by an authorized representative:

Ecosystem Services Market Consortium

Producer Named Above:

Debbie Reed, Executive Director

Name: _____



Title: _____