

# BONSUCRO

## Terms and Conditions for the supply of Brokerage Services to Sellers and Buyers of Bonsucro Credits

### 1. Definitions

1.1 In these Conditions the following words shall have the following meanings:

“Accepted Price”	the price per Bonsucro Credit in the Trading Currency agreed to be paid by the Buyer and accepted by the Seller for one or more Bonsucro Credits in accordance with these Conditions, including any applicable value added tax or other equivalent sales tax, but excluding the Brokerage Fee and all other applicable taxes and duties.
“Available Volume”	The volume of Supported Products (in tonnes for sugarcane, raw sugar and molasses, and in cubic meters for ethanol) produced by the Producer and recorded in accordance with the Bonsucro Mass Balance Chain of Custody Standard. When Bonsucro Credits are sold, an equivalent available volume must be deducted by the Seller from the Seller’s inventory in accordance with the Bonsucro Mass Balance Chain of Custody Standard.
“Authorised Party”	a person authorised to act on behalf of a Buyer or a Seller.
“Bid to Buy”	an offer to buy the number of Bonsucro Credits specified in the Bid to Buy at a price per Bonsucro Credit below or equal to the price specified in the Bid to Buy excluding the Brokerage Fee and all applicable taxes and duties which shall be payable by the Buyer in addition, such bid being notified to Bonsucro from time to time in accordance with these Conditions.
“Bonsucro”	Bonsucro Limited, a company limited by guarantee, registered in England (number 5997462) whose registered office is at The Wenlock Centre, 50-52 Wharf Road, London N1 7EU, trading as Bonsucro.
“Bonsucro Certification”	a certificate of conformity with the Bonsucro Mass Balance Chain of Custody Standard and either the Bonsucro Production Standard or the Bonsucro Production Standard for Smallholder Farmers.
“Bonsucro Certified”	in connection with a Producer, that it has a currently valid Bonsucro Certification.
“Bonsucro Mass Balance Chain of Custody Standard”	The standard available <a href="#">here</a> relating to the Mass Balance Chain of Custody
“Bonsucro Claims and Labelling Rules”	the document available <a href="#">here</a> setting out the terms and conditions relating to the use of Name, and Logo, and the making of claims in respect of the purchase of Bonsucro Credits.
“Bonsucro Code of Conduct”	the code of conduct to be adhered to by Bonsucro Members and available <a href="#">here</a> .
“Bonsucro Credit”	The right, derived from a unit of the Seller’s Available Volume, to make a claim in accordance the Bonsucro Claims and Labelling Rules, that is not dependent on the trade of any physical shipment of the Seller’s Available Volume.
“Bonsucro Member”	an organisation which has been accepted for membership by Bonsucro, has paid the relevant membership fees and which has accepted the Bonsucro Code of Conduct and any Membership Rules in force from time to time.
“Bonsucro Production Standard”	The standard available <a href="#">here</a> regulating the production of Supported Products by Producers who are not Smallholder Farmers.

“Bonsucro Standard for Farmers”	Production Smallholder Farmers”	The standard available <a href="#">here</a> regulating the production of Supported Products by Producers who are Smallholder Farmers.
“Brokerage Fee”		Bonsucro’s fee exclusive of any applicable value added tax per Bonsucro Credit for providing the Brokerage Services, the amount of which will be published on the Website from time to time.
“Brokerage Services”		the brokerage services to be provided by Bonsucro from time to time for Market Sales, Off Market Sales and FBO Trades as described in these Conditions.
“Buyer”		an organisation which is a Bonsucro Member and which contracts with Bonsucro for the provision of Brokerage Services in order to purchase Bonsucro Credits from a Seller whether or not on its own behalf or in respect of an FBO Trade.
“Buyer’s Payment”		the payment to be made in the Trading Currency by the Buyer to Bonsucro in respect of the purchase of Bonsucro Credits, being for each Bonsucro Credit the sum of the Accepted Price, the Brokerage Fee and all applicable taxes and duties payable by the Buyer in respect of the purchase.
“Conditions”		the terms and conditions for the supply of Brokerage Services set out in this document, as amended from time to time in accordance with Condition 22.
“Data Protection Legislation”		any binding legislation relating to the use or processing of personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).
“Farmer”		a person, co-operative, company or comparable entity whose primary business is the growing and harvesting of sugarcane.
“FBO Trade”		An off market purchase of Bonsucro Credits made by a Buyer on behalf of, and for the benefit of, a third party which must be a Bonsucro Member entitled to make the purchase in question.
“Farmers’ Association”		an organisation whose purpose is to support Farmers to pursue their individual and collective interests.
“Industrial Organisation”		a company whose primary business is the processing of sugarcane to produce any Supported Product.
“Intellectual Property Rights”		means patents, rights to inventions, copyright and related rights, trademarks and service marks, trade names and domain names, rights in get-up, rights to goodwill and to sue for passing off and unfair competition, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (and rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.
“Logo”		means the logo of Bonsucro, details of which appear in the Bonsucro Claims and Labelling Rules and as may be updated by Bonsucro from time to time at its sole discretion.
“Market Sale”		the sale of one or more Bonsucro Credits through the Website in accordance with these Conditions as the result of Bonsucro accepting an Offer to Sell on

behalf of a Buyer and a Bid to Buy on behalf of a Seller.

“Members’ Section”	the section of the Website which is capable of being accessed by Bonsucro and Bonsucro Members by using a password and username registered by each Authorised Party of each Seller and Buyer on the Website.
“Membership Rules”	any membership rules of Bonsucro published on the Website from time to time.
“Mill” and “Miller”	a factory which processes sugarcane and/or sugarcane residue to produce sugarcane products and by-products.
“Mill Association”	an organisation whose purpose is to support Mills and Millers to pursue their individual and collective interests.
“Name”	means "Bonsucro", which is a registered trademark, “Bonsucro Credits” and/or any other trading name used by Bonsucro from time to time.
“Off Market Sale”	the sale of one or more Bonsucro Credits through the Website in accordance with these Conditions following negotiations between a Seller and a Buyer.
“Offer to Sell”	an offer to sell the number of Bonsucro Credits specified in the Offer to Sell at a price per Bonsucro Credit equal to or above the price specified in the Offer to Sell, excluding the Brokerage Fee and all applicable taxes and duties, as notified to Bonsucro from time to time in accordance with these Conditions.
“Password and User Name”	the password and username set up by each Authorised Party for each Seller and Buyer to access the Website from time to time in accordance with these Conditions.
“Producer”	a Farmer, a Smallholder Farmer, a Farmers’ Association, a Mill, Miller or a Mill Association or an Industrial Organisation.
“Producer Certificate”	a certificate confirming its Bonsucro Certification issued to a Producer by a licenced certification body authorised by Bonsucro to audit Producers against the Bonsucro certification standards.
“Public Section”	the section of the Website access to which is generally available and is not limited by use of a password, username or in any other way.
“Seller”	a Producer which contracts with Bonsucro for the provision of Brokerage Services in order to sell Bonsucro Credits.
“Service Hours”	Monday to Friday 9 am to 5 pm, excluding days which are bank or public holidays in England, and excluding the whole of the period between 27 <sup>th</sup> December in each year and 2 <sup>nd</sup> January (inclusive of both dates) in the following year.
Smallholder Farmer	a farmer who or which manages fewer than 25 hectares of land under sugarcane, is the decision maker of the majority of activities on the land and meets the eligibility requirements set out in the Bonsucro Production Standard for Smallholder Farmers.
“Supported Product”	Sugarcane, Raw Sugar, Molasses or Ethanol.
“Trading Currency”	US Dollars.
“Website”	the website operated by Bonsucro from time to time and currently at <a href="http://www.bonsucrocredits.com">www.bonsucrocredits.com</a> and any subdomains at that URL.

- 1.2 In these Conditions:
    - 1.2.1 the headings are for convenience only and shall not affect their interpretation;
    - 1.2.2 the plural shall include the singular and vice versa; and
    - 1.2.3 any date or time specified in these Conditions is reference to a date or time in England, being Greenwich Mean Time or British Standard Time, as applicable.
  - 1.3 Bonsucro may change, update or modify any of its policies, rules, codes, standards or other such documents from time to time at its sole discretion. When it does so, it shall post notification of that on the Website, whereupon any such change update or modification shall become binding upon all Bonsucro Members.
  - 1.4 These Conditions, as they may be carried from time to time, shall govern all matters relating to the trading of Bonsucro Credits and all other matters referred to in them, to the exclusion of any other terms and conditions relating in any way to the trading of Bonsucro Credits.
- 2. Grant of Licence**
- 2.1 In consideration of each Bonsucro Member complying with these Conditions, the Bonsucro Claims and Labelling Rules, the Bonsucro Code of Conduct and any Membership Rules, Bonsucro grants each Bonsucro Member a non-exclusive, revocable, non-transferable, non-sublicensable worldwide licence to use the Intellectual Property Rights in the Name and the Logo as follows:
    - 2.1.1 where the Bonsucro Member in question is Seller, for the sale of Bonsucro Credits;
    - 2.1.2 where the Bonsucro Member is a Buyer or is the Bonsucro Member on whose behalf an FBO Trade has been effected and only after the payment in full for any purchase of Bonsucro Credits, for the purpose of making any statement in press publications, on its website and promotional materials, within 12 months from the date of purchase (whether or not that is earlier than the date of payment) of the relevant Bonsucro Credits but only in accordance with Bonsucro Claims and Labelling Rules.
  - 2.2 The licence granted under clause 2.1 shall terminate in respect of any Bonsucro Member upon termination of that Bonsucro Member's membership of Bonsucro.
- 3. The right to trade Bonsucro Credits**
- 3.1 Provided that the Producer complies with its obligations under these Conditions and the Certification Terms, it shall have the right to sell its Available Volume to Buyers through the Website as Bonsucro Credits. For the avoidance of doubt, for any sales by the Producer of Bonsucro Credits without a shipment of sugarcane products, an equivalent available volume must be deducted from the Seller's inventory in accordance with the Mass Balance Chain of Custody Standard.
  - 3.2 Both the Buyer and the Seller shall maintain complete records of all Bonsucro Credits bought or sold by them, including details of the volume and transaction dates (together with any other details specified by Bonsucro from time to time).
  - 3.3 If any Producer shall sell any Bonsucro Credits in excess of its Available Volume, then as soon as the Producer becomes aware of that, it shall immediately inform Bonsucro and purchase sufficient Bonsucro Credits to cover the excess that it has sold, and shall immediately confirm to Bonsucro that it has done so.
  - 3.4 A Seller may only sell Bonsucro Credits that relate to Supported Products produced by the Seller and comprised within a Producer's Certificate in the name of the Seller. Any Bonsucro Credits which relate to an Available Volume of sugarcane may only be sold by a certified independent farmer who has Bonsucro Certification, or by a group manager certified as conforming to the Bonsucro Production Standard for Smallholder Farmers certification.
  - 3.5 The Buyer may offer to buy 25 or more Bonsucro Credits by making a Bid to Buy to Bonsucro in accordance with these Conditions.
- 4. Supply of Brokerage Services**
- 4.1 Bonsucro supplies Brokerage Services for the purchase and sale of Bonsucro Credits in accordance with these Conditions. Each time the Seller submits an Offer to Sell, the Buyer submits a Bid to Buy or the Seller or the Buyer notifies or confirms to Bonsucro the wish to make an Off Market Sale or an FBO Trade, they each agree to buy Brokerage Services for the sale or purchase of Bonsucro Credits, as applicable, on the terms of these Conditions.
  - 4.2 Bonsucro will supply Brokerage Services in accordance with these Conditions in respect of Bonsucro Credits for the Supported Products.
  - 4.3 Bonsucro shall not have any obligation to provide Brokerage Services to the Seller or the Buyer but Brokerage Services provided will be provided with reasonable care and skill.
  - 4.4 The Seller and the Buyer each acknowledge that:
    - 4.4.1 Bonsucro shall not have any obligation to provide Brokerage Services to it if it ceases to be a Bonsucro Member;

- 4.4.2 these Conditions relate only to the provision of Brokerage Services and do not relate to any other aspect of the operation of the Bonsucro; and
  - 4.4.3 Bonsucro does not warrant the authenticity of any Bonsucro Credit.
  - 4.4.4 whilst Bonsucro will use reasonable commercial efforts to ensure the availability of the Website and the Brokerage Services, it shall have no liability to any Bonsucro Member for any period during which the Website or the Brokerage Services is or are not available and no sale or purchase of Bonsucro Credits is possible, nor for any error in or malfunctioning of the Website at any time.
- 4.5 Any services provided by Bonsucro in assisting Bonsucro Members or providing additional services in relation to the Brokerage Services or otherwise shall be provided during the Service Hours.

## **5. Sale and Purchase of Bonsucro Credits**

- 5.1 The sale and purchase of Bonsucro Credits by Market Sale and Off Market Sale or FBO Trade will be conducted through the Website in accordance with these Conditions.
- 5.2 All of these Conditions apply to Market Sales except for Conditions 9 and 10 which only apply to Off Market Sales and FBO Trades respectively.
- 5.3 All of these Conditions apply to Off Market Sales except for Conditions 6, 7 and 8 which only apply to Market Sales and Condition 10 which applies only to FBO Trades.
- 5.4 All of these Conditions apply to FBO Trades except for Conditions 6, 7, 8 and 9 which only apply to Market Sales and to Off Market Sales which are not FBO Trades
- 5.5 Each transaction shall be carried out in the Trading Currency and the Accepted Price, the Buyer's Payment and the Brokerage Fee shall all be calculated and paid in the Trading Currency.
- 5.6 No Buyer may resell any Bonsucro Credit which it has purchased.

## **6. Sellers (Market Sales only)**

- 6.1 A Seller may only sell Bonsucro Credits that relate to Supported Products produced by the Seller and comprised within a Producer's Certificate in the name of the Seller. Any Bonsucro Credits which relate to an Available Volume of sugarcane may only be sold by a certified independent farmer who has Bonsucro Certification, or by a group manager certified as conforming to the Bonsucro Production Standard for Smallholder Farmers certification.
- 6.2 A Seller may offer Bonsucro Credits for sale by sending an Offer to Sell to Bonsucro through the Website. Offers to Sell must be made in the Trading Currency and may be made in \$0.01 increments.
  - 6.3 When sending an Offer to Sell the Seller shall be deemed to warrant to Bonsucro and to the Buyer of each of the Bonsucro Credits that the Seller is entitled to sell the Bonsucro Credits the subject of the Offer to Sell and that any such sale will not exceed its Available Volumes.
  - 6.4 An Offer to Sell is an offer to sell at a price equal to or above the price specified in the Offer to Sell. For example, an Offer to Sell at \$10 is an offer to sell at \$10 or more, which authorises Bonsucro to accept Bids to Buy of \$10 or more, starting with the highest price.
  - 6.5 On receipt of an Offer to Sell, Bonsucro will confirm receipt by electronic mail through the Website to the Seller and will show on the Seller's private screen on the Website the receipt of that Offer to Sell, including the date and time of receipt and a unique reference number.
  - 6.6 The Offer to Sell price will be listed anonymously on the list of Offers to Sell on the Website.
  - 6.7 Bonsucro will only provide Brokerage Services in respect of Offers to Sell communicated to it using the Seller's Password and User Name and made by the Seller or by an Authorised Party.
  - 6.8 Each Offer to Sell shall remain capable of acceptance by or on behalf of a Buyer until the earlier of:
    - 6.8.1 acceptance of an Offer to Sell by or on behalf of a Buyer;
    - 6.8.2 the Seller withdraws the Offer to Sell in accordance with these Conditions; or
    - 6.8.3 Bonsucro suspends the provision of Brokerage Services in respect of that Seller in accordance with clause 18 or generally.
  - 6.9 The Seller may withdraw an Offer to Sell by notifying Bonsucro through the Website, which shall be effective on confirmation of receipt by Bonsucro to the Seller. The Seller cannot withdraw an Offer to Sell after it has been accepted by a Buyer or an Authorised Party.
  - 6.10 The Bonsucro Credits included in an Offer to Sell may be purchased by one or more Buyer, each such Bonsucro Credit being purchased by one Buyer only. These Conditions shall apply separately to each such Buyer in respect of the Bonsucro Credits purchased by that Buyer.

## **7. Buyers (Market Sales only)**

- 7.1 The Bid to Buy will include details of the number of Bonsucro Credits the Buyer wishes to buy Bids to Buy must be in the Trading Currency and may be made in \$0.01 increments.
- 7.2 When making a Bid to Buy the Buyer shall be deemed to warrant to Bonsucro and to the Seller of each of the

Bonsucro Credits that the Buyer wishes and is entitled to buy the Bonsucro Credits that are the subject of the Bid to Buy.

- 7.3 A Bid to Buy is an offer by the Buyer to purchase the number of Bonsucro Credits specified in the Bid to Buy at a price below or equal to the price specified in the Bid to Buy. For example a Bid to Buy of \$10 is an offer to buy at a price up to \$10, which authorises Bonsucro to accept Offers to Sell at \$10 or less, starting with the lowest price.
- 7.4 On receipt of a Bid to Buy from a Buyer, Bonsucro will confirm receipt by electronic mail through the Website to the Buyer and will show on the Buyer's private screen on the Website the receipt of that Bid to Buy, including the date and time of receipt and a unique reference number.
- 7.5 The Bid to Buy will be listed anonymously on the list of Bids to Buy on the Website.
- 7.6 Each Bid to Buy shall remain capable of acceptance by a Seller or by an Authorised Party until the earlier of:
- 7.6.1 acceptance of the Bid to Buy by a Seller or an Authorised Party;
  - 7.6.2 the Buyer withdraws the Bid to Buy in accordance with the Conditions; or
  - 7.6.3 Bonsucro suspends the provision of Brokerage Services in respect of that Buyer in accordance with clause 18 or generally.
- 7.7 The Buyer may withdraw a Bid to Buy by notifying Bonsucro through the Website, which shall be effective on confirmation of receipt by Bonsucro to the Buyer. The Buyer cannot withdraw a Bid to Buy after it has been accepted by or on behalf of a Seller.
- 7.8 Bonsucro will only provide Brokerage Services in respect of Bids to Buy communicated to it using the Buyer's Password and User Name and made by the Buyer or by an Authorised Party.
- 7.9 On each purchase of Bonsucro Credits the Buyer shall pay the Brokerage Fee in respect of each Bonsucro Credit plus all applicable taxes and duties.
- 7.10 A Bid to Buy may be accepted on behalf of one or more Seller of Bonsucro Credits, each such Bonsucro Credit being sold to the Buyer by one Seller only. These Conditions shall apply separately to each such Seller in respect of the Bonsucro Credits sold by that Seller.
- 7.11 Bonsucro may from time to time, upon written request from a Buyer, set a limit on the value of Bonsucro Credits for which that Buyer may make a Bid to Buy. If Bonsucro agrees to take this step, the limit and time during which (if applicable) the limit will be in force will be agreed with the Buyer in question.
- 7.12 If Bonsucro sets a limit in accordance with clause 7.11, then the Website will be configured so that any attempts by the Bonsucro Member in question to place a Bid to Buy which would take it over that limit will be blocked by the Website and the Bid to Buy will not be valid.

## **8. Transaction (Market Sales only)**

- 8.1 Bonsucro will act as agent of the Seller and the Buyer to effect a contract for the sale and purchase of Bonsucro Credits.
- 8.2 If a Seller's Offer to Sell is equal to or below a Bid to Buy for Bonsucro Credits already received from a Buyer, Bonsucro on behalf of the Buyer will accept the Offer to Sell. Bonsucro will notify acceptance to the Seller and the Buyer. Transfer of the ownership of those Bonsucro Credits will be recorded on the Website and they will be made available for claiming by the Buyer once the Buyer's Payment has been received by Bonsucro.
- 8.3 If a Bid to Buy matches more than one Offer to Sell at the same price, or an Offer to Sell matches two or more Bids to Buy at the same price, the Website will automatically allocate Bids to Buy to Offers to Sell on a "first in first out" system, by reference to the time at which the Bids to Buy or Offers to Sell, as applicable, were received by Bonsucro.
- 8.4 A Bid to Buy may be matched automatically by the Website by more than one Offer to Sell and from different Sellers.

## **9. Off Market Sales (this clause does not apply to Market Sales nor FBO sales)**

- 9.1 Off Market Sales of Bonsucro Credits must be completed through the Website and will be made on these Conditions. Any agreement in negotiations between a prospective Seller and prospective Buyer will not result in a contract of sale until an Off Market Sale has been effected in accordance with these Conditions.
- 9.2 Where a Seller and a Buyer wish to make an Off Market Sale as a result of negotiations, the Buyer shall complete the details of the transaction on the Website and will notify Bonsucro of the proposed transaction through the Website, within 30 days from when agreement is reached with the Seller, giving the name of the Seller, the number of the Bonsucro Credits and the Accepted Price ("relevant details").
- 9.3 Following receipt of notification in accordance with Condition 9.2 Bonsucro:
- 9.3.1 will confirm receipt by electronic mail to the Buyer; and
  - 9.3.2 will ask the Seller to confirm through the Website the relevant details to Bonsucro. The Buyer hereby authorises Bonsucro to disclose all relevant details to the Seller identified in the notice.

- 9.4 During any period where Bonsucro is waiting for the Seller or the Buyer to confirm the relevant details, Bonsucro shall be entitled in accordance with these Conditions:
- 9.4.1 to accept on behalf of a Buyer any Offer to Sell made by the Seller; and
  - 9.4.2 to accept on behalf of a Seller any Bid to Buy made by the Buyer.
- 9.5 When Bonsucro has received confirmation of the relevant details through the Website, Bonsucro will validate the relevant details submitted by the Buyer and confirmed by the Seller. Bonsucro shall be authorised as agent of the Seller and the Buyer to effect in accordance with these Conditions a contract for the sale and purchase of Bonsucro Credits as set out in the relevant details.
- 9.6 If the Seller does not have sufficient Bonsucro Credits remaining in their Available Volumes for sale in accordance with Condition 9.5 to cover the proposed transaction, the Seller will immediately notify Bonsucro and Bonsucro will contact the relevant Buyer for instructions. The Buyer and Seller of the transaction in question hereby authorise Bonsucro to notify the other party about why the transaction cannot proceed.
- 9.7 Where instructions are required from the Seller pursuant to Condition 9.6, until such instructions are received the Seller agrees that Bonsucro shall be entitled to suspend all Offers to Sell made by the Seller in accordance with these Conditions.

## **10. Off Market Sales – FBO trades only**

- 10.1 Off Market Sales of Bonsucro Credits that are FBO Trades must be completed through the Website as Off Market Sales and will be made on these Conditions. Any agreement in negotiations between a prospective Seller and prospective Buyer for an FBO Trade will not result in a contract of sale until an Off Market Sale has been effected in accordance with these Conditions;
- 10.2 Where a Seller and a Buyer for an FBO Trade wish to make an Off Market Sale as a result of negotiations, the Buyer for an FBO Trade shall complete the details of the transaction on the Website and will notify Bonsucro of the proposed transaction through the Website, within 30 days from when agreement is reached with the Seller, giving the name of the Seller, the number of the Bonsucro Credits, the Accepted Price, the name of the Member on whose behalf the FBO Trade is to be effected ('the Ultimate Buyer') and the price to that Member ("relevant details").
- 10.3 Following receipt of notification in accordance with Condition 10.2 Bonsucro:
- 10.3.1 will confirm receipt by electronic mail to the Buyer; and
  - 10.3.2 will ask the Seller to confirm through the Website the relevant details to Bonsucro. The Buyer hereby authorises Bonsucro to disclose all relevant details, except for the price to the Ultimate Buyer, to the Seller identified in the notice.
- 10.4 During any period where Bonsucro is waiting for the Seller or the Buyer to confirm the relevant details, Bonsucro shall be entitled in accordance with these Conditions:
- 10.4.1 to accept on behalf of a Buyer any Offer to Sell made by the Seller; and
  - 10.4.2 to accept on behalf of a Seller any Bid to Buy made by the Buyer.
- 10.5 When Bonsucro has received confirmation of the relevant details through the Website, Bonsucro will validate the relevant details submitted by the Buyer and confirmed by the Seller.
- 10.6 The Buyer shall, following the validation referred to in clause 10.5, send an invoice to the Ultimate Buyer but the Buyer shall remain liable to complete the purchase of the Bonsucro Credits in question in accordance with clauses 11 and 12.
- 10.7 Transfer of the ownership of the purchased Bonsucro Credits will be recorded on the Website and they will be made available for claiming by the Ultimate Buyer once the payments due under clause 10.6 and clauses 11 and 12 have been received by the Seller and Bonsucro.
- 10.8 If the Seller does not have sufficient Bonsucro Credits remaining in their Available Volumes for sale in accordance with Condition 10.5 to cover the proposed transaction, the Seller will immediately notify Bonsucro and Bonsucro will contact the relevant Buyer for instructions. The Buyer and Seller of the transaction in question hereby authorise Bonsucro to notify the other party about why the transaction cannot proceed.
- 10.9 Where instructions are required from the Seller pursuant to Condition 10.8, until such instructions are received the Seller agrees that Bonsucro shall be entitled to suspend all Offers to Sell made by the Seller in accordance with these Conditions.
- 10.10 Bonsucro reserves the right to audit at Bonsucro's cost the books of a Buyer for an FBO Trade annually to verify the information provided on the Website.

## **11. Contract for the Sale and Purchase of Bonsucro Credits**

- 11.1 On acceptance of an Offer to Sell by a Buyer or by an Authorised Party, on acceptance of a Bid to Buy by a Seller or by an Authorised Party or when an Off Market Sale or an FBO Trade is effected by Bonsucro, in each case in accordance with these Conditions, the Buyer has entered into a contract with the Seller (to which

Bonsucro shall not be a party) for the purchase of the Bonsucro Credits the subject of the Bid to Buy or the Off Market Sale or the FBO Trade on terms set out in these Conditions, including this Condition 11.

- 11.2 The Buyer must pay the Brokerage Fee to Bonsucro and any applicable sales or other taxes payable on the Brokerage Fee and validly levied by the Seller, on each Bonsucro Credit in addition to the Accepted Price.
- 11.3 The Buyer must pay the Buyer's Payment in the Trading Currency to Bonsucro not later than 90 days from the date on which the Buyer is notified by Bonsucro that its Bid to Buy has been accepted by or on behalf a Seller or both parties are notified by Bonsucro that an Off Market Sale has been effected, as applicable.
- 11.4 In the case of FBO Trades, the Buyer must pay the Accepted Price to the Seller on behalf of the Ultimate Buyer in accordance with Condition 11.3, and the Buyer must pay the Brokerage Fee to Bonsucro. The Buyer shall be entitled to obtain payment of the Accepted Price and the Brokerage Fee from the Ultimate Buyer, but shall not be relieved of its obligations under this clause 11.4 if it does not receive any such payment from the Ultimate Buyer.
- 11.5 If the Buyer fails to pay the Buyer's Payment to Bonsucro in full in accordance with Condition 11.3 and 11.4:
- 11.5.1 the contract for the sale and purchase of those Bonsucro Credits will terminate automatically and the Bonsucro Credits in question shall become available for purchase again on the Website and in their original position in the queue: and
- 11.5.2 the Buyer will be liable:
- 11.5.2.1 to pay to Bonsucro the Brokerage Fee; and
- 11.5.2.2 to pay interest on any sums outstanding from the due date for payment at the rate of 4% above the United Kingdom base lending rate from time to time of Bonsucro's bankers accruing on a daily basis until payment is made, whether before or after any judgment; and
- 11.5.3 Subject to clause 11.6 Bonsucro shall be entitled to suspend the Buyer's access to the Website for up to 30 days.
- 11.6 If the Buyer fails to pay the Brokerage Fee under clause 11.5.2.1, then until that payment is made, Bonsucro shall be entitled to suspend the Buyer's access to the Website, and if the Buyer fails to make that payment on more than one occasion, then Bonsucro may suspend the Buyer's access to the Website permanently, and the Buyer will no longer be able to purchase Bonsucro Credits either by way of Market Sale or by way of Off Market Sale or by way of FBO Trade.
- 11.7 The contract shall be made in England and be subject to English law and the exclusive jurisdiction of the courts in England.
- 11.8 Bonsucro is not responsible or liable for collecting and/or accounting for any value added tax or other equivalent sales tax which may be payable to any authority by the Seller or the Buyer in respect of the sale and purchase of Bonsucro Credits. The Seller and the Buyer shall each indemnify and keep indemnified Bonsucro against all liability, fines, costs and expenses suffered or incurred or agreed to be paid by Bonsucro as a result of their respective failure to comply with any of their respective value added tax or equivalent sales tax obligations .

## **12. Completion of Sale and Purchase**

- 12.1 Following a purchase of Bonsucro Credits:
- 12.1.1 the Buyer will pay the Buyer's Payment to Bonsucro in the Trading Currency in accordance with Condition 11.3, and if it is an FBO Trade in accordance with Condition 11.4; and
- 12.1.2 except in the case of FBO trades (where the Buyer shall pay the Seller direct, and shall pay the Brokerage Fee to Bonsucro), following receipt of the Buyer's Payment in full and cleared funds Bonsucro will pay the Seller in the Trading Currency.
- in each case in accordance with these Conditions.
- 12.2 If the Buyer pays the Buyer's Payment in accordance with Condition 11.3, the sale and purchase will be completed on the receipt of the Buyer's Payment in full in cleared funds by Bonsucro. In the case of FBO Trades the sale and purchase of Bonsucro Credits will be completed at the moment of the later of the receipt by Bonsucro of the Brokerage Fee and the receipt by the Seller of the payment for the Accepted Price.
- 12.3 The Seller and Buyer each acknowledge that Bonsucro:
- 12.3.1 will deal with each Offer to Sell, each Bid to Buy and each Off Market Sale in accordance with these Conditions;
- 12.3.2 is authorised by the Seller on behalf of each Seller to accept a Bid to Buy made by a Buyer which is equal to or more than the Seller's Offer to Sell price and to accept payment by the Buyer on behalf of the Seller;
- 12.3.3 is authorised by the Buyer on behalf of each Buyer to accept an Offer to Sell made by a Seller which is lower than or equal to the Buyer's Bid to Buy so as to commit the Buyer;
- 12.3.4 is authorised by the Seller and the Buyer to effect an Off Market Sale on terms notified and

confirmed to Bonsucro in accordance with Condition 9.

12.3.5 is authorised by the Seller and the Buyer to effect an FBO Trade on terms notified and confirmed to Bonsucro in accordance with Condition 10.

12.4 If the Buyer fails to pay the Buyer's Payment in full in accordance with Condition 11.3 or Condition 11.4 in the case of FBO Trades, then Condition 11.5 shall apply; and

12.4.1 Bonsucro shall not have any obligation to the Seller to recover for the Seller any sums due and payable by the Buyer in accordance with the contract of sale or any liability to the Seller for the Buyer's performance or failure to perform any contract for the sale and purchase of Bonsucro Credits; and

12.4.2 Bonsucro shall not have any liability to the Buyer for the Seller's performance or failure to perform any contract for the sale and purchase of Bonsucro Credits.

### **13. Website, Passwords and User Names**

13.1 When the Buyer has completed the purchase of Bonsucro Credits by payment of the Buyer's Payment Bonsucro will display the Bonsucro Credits purchased and the Accepted Price on the Members' Section in accordance with these Conditions and where the purchase was a FBO Trade, may at its discretion also display the price at which the Buyer declared it was selling the Bonsucro Credits in question to the Bonsucro Member on behalf of which the purchase was made.

13.2 The Buyer and Seller shall each be able to access their account on the Website but not to edit any information held in relation to their accounts, which may only be edited by Bonsucro. If a Bonsucro Member wishes for any amendment to be made in relation to information held in relation to their accounts, that request should be made to Bonsucro through the Website. Bonsucro may decline to make any such amendment or edit, if in its discretion it deems it reasonable.

13.3 The Seller and the Buyer will each use the Password and User Name when submitting an Offer to Sell or a Bid to Buy or notifying or confirming to Bonsucro details of negotiations and in all other dealings with Bonsucro relating to Brokerage Services.

13.4 The Seller and the Buyer will each adopt appropriate security arrangements for the security of the Password and User Name as required by Bonsucro from time to time and published on the Website and will notify Bonsucro promptly if it has reason to believe that any unauthorised third party has or may have had access to the Password or User Name.

13.5 The Seller and the Buyer each acknowledge that where the Password and User Name are used Bonsucro shall be entitled:

13.5.1 to process Offers to Sell and Bids to Buy; and

13.5.2 as authorised in accordance with these Conditions, on behalf of the Seller to accept a Bid to Buy in respect of each Offer to Sell and on behalf of the Buyer to accept an Offer to Sell; and

13.5.3 to effect an Off Market Sale or an FBO Trade on terms notified and confirmed to it; and

13.5.4 to provide Brokerage Services

and the Seller and the Buyer each hereby accept responsibility for and indemnify Bonsucro in respect of any loss or damage suffered or liability incurred by Bonsucro as a result of the Seller's or the Buyer's respective failure to implement adequate security arrangements for the Password or User Name.

### **14. Obligations of Bonsucro Members**

14.1 Each Bonsucro Member shall promptly notify Bonsucro in writing if any of the following matters come to its attention:

14.1.1 any actual, suspected or threatened infringement of the Intellectual Property Rights in the Name and/or Logo;

14.1.2 any claim made or threatened that the Name and/or Logo infringe the rights of any third party; or

14.1.3 any other form of attack, charge or claim to which the Name and/or Logo may be subject.

14.2 In respect of the matters listed in clause 14.1:

14.2.1 Bonsucro shall, at its absolute discretion, decide what action to take, if any;

14.2.2 Bonsucro shall have exclusive control over, and conduct of, all claims and proceedings;

14.2.3 no Bonsucro Member shall make any admissions other than to Bonsucro and shall provide Bonsucro with such assistance that it may reasonably require in the conduct of any claims or proceedings at Bonsucro's expense, save where the Bonsucro Member is in breach of its obligations under this agreement and save for any independent legal advice obtained by the Bonsucro Member in connection with any such claim or proceeding; and

14.2.4 Bonsucro shall bear the cost of any proceedings and shall be entitled to retain all sums recovered in any action for its own account.

14.3 Each Bonsucro Member shall, in exercising its rights under this agreement, comply with, and shall ensure that

its use of the Name and/or Logo complies with, all applicable laws, regulations, industry standards and codes of practice.

- 14.4 No Bonsucro Member shall do, or omit to do, or permit to be done, any act which will or may weaken, damage or be detrimental to the Name and/or Logo or the reputation or goodwill associated with the Name and/or Logo or Bonsucro, or which may invalidate or jeopardise any registration of the Intellectual Property Rights in the Name and/or Logo.

## **15. Ownership of Intellectual Property and indemnity**

- 15.1 Bonsucro is the owner of the Intellectual Property Rights in the Name and Logo and the Website and the use of the Name and the Logo authorised by these Conditions will not infringe the Intellectual Property Rights of any third party.
- 15.2 Subject to clause 15.7, each party (the Indemnifying Party) shall indemnify the other party (the Indemnified Party) against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Indemnified Party arising out of or in connection with:
- 15.2.1 that the Indemnifying Party's breach or negligent performance or non-performance of these Conditions;
- 15.2.2 any claim made against the Indemnified Party for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with any action or omission of the Indemnifying Party in connection with these Conditions; and
- 15.2.3 any claim made against the Indemnified Party by a third party arising out of or in connection with any action or omission of the Indemnifying Party in connection with these Conditions, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of these Conditions by the Indemnifying Party, its employees, agents or subcontractors.
- 15.3 This indemnity shall not cover the Indemnified Party to the extent that a claim under it results from the Indemnified Party's gross negligence or wilful misconduct or the Indemnified Party's breach of these Conditions.
- 15.4 If any third party makes a claim, or notifies an intention to make a claim, against the Indemnified Party which may reasonably be considered likely to give rise to a liability under this indemnity (a **Claim**), the Indemnified Party shall:
- 15.4.1 as soon as reasonably practicable, give written notice of the Claim to the Indemnifying Party, specifying the nature of the Claim in reasonable detail;
- 15.4.2 not make any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Indemnifying Party (such consent not to be unreasonably conditioned, withheld or delayed), provided that the Indemnified Party may settle the Claim (after giving prior written notice of the terms of settlement (to the extent legally possible) to the Indemnifying Party, but without obtaining its consent) if the Indemnified Party reasonably believes that failure to settle the Claim would be prejudicial to it in any material respect;
- 15.4.3 give the Indemnifying Party and its professional advisers access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of the Indemnified Party, so as to enable the Indemnifying Party and its professional advisers to examine them and to take copies (at the Indemnifying Party's own expense) for the purpose of assessing the Claim; and
- 15.4.4 subject to the Indemnifying Party providing security to the Indemnified Party, to the Indemnified Party's reasonable satisfaction, against any claim, liability, costs, expenses, damages or losses which may be incurred, take such action as the Indemnifying Party may reasonably request to avoid, dispute, compromise or defend the Claim.
- 15.5 If a payment due from the Indemnifying Party under this clause is subject to tax (whether by way of direct assessment or withholding at its source), the Indemnified Party shall be entitled to receive from it such amounts as shall ensure that the net receipt, after tax, to Bonsucro in respect of the payment is the same as it would have been were the payment not subject to tax.
- 15.6 Nothing in this clause shall restrict or limit the Indemnified Party's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.
- 15.7 Each Party's liability in respect of any liability arising under the indemnities in this clause 15 shall be limited to the sum of £1,000,000 per claim.

## **16. Data Protection**

- 16.1 The Seller and Buyer each acknowledge that Bonsucro shall collect information from them pursuant to the

provision of Brokerage Services which may include information relating to their personnel.

- 16.2 All parties will comply with all applicable requirements of the Data Protection Legislation. This clause 16 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this clause 16 **Applicable Laws** means (for so long as and to the extent that they apply in England and Wales) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the Data Protection Legislation applicable in the UK and any other law that applies in the UK.
- 16.3 Without prejudice to the generality of clause 16.2, each party will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to any other party for the duration and purposes of this agreement.
- 16.4 Without prejudice to the generality of clause 16.2, each party (**Party 1**) shall, in relation to any personal data processed in connection with the performance by any other party (**Party 2**) of its obligations under these Conditions:
- 16.4.1 process those personal data only on the documented written instructions of the Party 2 unless Party 1 is required by Applicable Laws to otherwise process those personal data. Where Party 1 is relying on laws of a member of the European Union or European Union law as the basis for processing personal data, Party 1 shall promptly notify Party 2 of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Party 1 from so notifying Party 2;
  - 16.4.2 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
  - 16.4.3 ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
  - 16.4.4 not transfer any personal data outside of the European Economic Area unless the prior written consent of Party 2 has been obtained and the following conditions are fulfilled:
    - 16.4.4.1 Party 2 or Party 1 has provided appropriate safeguards in relation to the transfer;
    - 16.4.4.2 the data subject has enforceable rights and effective legal remedies;
    - 16.4.4.3 Party 1 complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
    - 16.4.4.4 Party 1 complies with reasonable instructions notified to it in advance by Party 2 with respect to the processing of the personal data;
  - 16.4.5 notify Party 2 without undue delay on becoming aware of a personal data breach; and
  - 16.4.6 at the written direction of Party 2, delete or return personal data and copies of them to Party 2 unless required by Applicable Law to store the personal data.

## 17. Confidentiality

- 17.1 Subject to Condition 9.3 and 17.2, Bonsucro, the Buyer and the Seller each agree that while Bonsucro provides Brokerage Services and after the termination of such services, each party will keep confidential any confidential information which is disclosed to it by the other party pursuant to or in connection with the provision of Brokerage Services or a contract for the sale and purchase of Bonsucro Credits whether disclosed orally or in writing and whether or not such information is expressly stated to be confidential or marked as such. The Seller and the Buyer each agree not to use any such information for any other purpose and Bonsucro agrees not to use any such information for any purpose other than the provision of Brokerage Services or the operation of the Bonsucro.
- 17.2 Each party to an Off Market Sale or an FBO Trade may disclose the fact that it has bought Bonsucro Credits from or sold Bonsucro Credits to the other party but will keep confidential and will not disclose to any party other than Bonsucro the terms of such Off Market Sale or FBO Trade, including but not limited to the Accepted Price. Bonsucro may in its discretion publish details of the prices at which Bonsucro Credits have been bought and sold, but without revealing the identity of any Buyer or Seller in doing so.
- 17.3 For the avoidance of doubt the provisions of Condition 17.1 shall apply to all information which is published on the Members' Section only but shall not apply to information which is published on the Public Section.

## **18. Suspension of Services**

- 18.1** Bonsucro may by written notice to the Seller or the Buyer at any time suspend provision of the Brokerage Services without liability if:
- 18.1.1** the Seller or the Buyer, as applicable, is in breach of the contract with Bonsucro for the provision of Brokerage Services; or
  - 18.1.2** the Buyer fails to pay the Buyer's Payment by the due date or commits any other breach of any contract with a Seller for the purchase of Bonsucro Credits and, in the case of such a breach which is capable or remedy, fails to remedy it within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied; or
  - 18.1.3** the Seller commits any breach of any contract with a Buyer for the purchase of Bonsucro Credits and, in the case of such a breach which is capable or remedy, fails to remedy it within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied; or
  - 18.1.4** the Seller's or the Buyer's, as applicable, membership of the Bonsucro is suspended or terminated in accordance with any Membership Rules.
- 18.2** Following suspension of the Brokerage Services to the Seller:
- 18.2.1** any Offer to Sell which at the date of such suspension has not been accepted by or on behalf of a Buyer in accordance with these Conditions shall be deemed withdrawn;
  - 18.2.2** any Bonsucro Credits in respect of which a Bid to Buy has not been accepted by or on behalf of the Seller in accordance with these Conditions at the date of such suspension shall be deemed not to have been sold;
  - 18.2.3** any contract relating to the sale and purchase of Bonsucro Credits for which a Bid to Buy has been accepted by or on behalf of a Seller shall not be affected provided that the Buyer pays the Buyer's Payment in accordance with the Conditions;
  - 18.2.4** where details of negotiations have been notified but not confirmed to Bonsucro or have been notified and confirmed to Bonsucro but an Off Market Sale or an FBO Trade has not been entered into at the time of the suspension, an Off Market Sale or FBO Trade shall not be entered into and notification and confirmation shall be deemed withdrawn;
  - 18.2.5** any Off Market Sale or FBO Trade which has been entered into at the time of the suspension in accordance with these Conditions shall not be affected provided the Buyer pays the Buyer's Payment in accordance with these Conditions; and
  - 18.2.6** Bonsucro shall continue to provide the Brokerage Services to the extent required pursuant to Condition 18.1.3 and 18.2.5.
- 18.3** Following suspension of the Brokerage Services to the Buyer:
- 18.3.1** any Bid to Buy which at the date of such suspension has not been accepted by or on behalf of a Seller in accordance with these Conditions shall be deemed withdrawn;
  - 18.3.2** any Bonsucro Credits in respect of which a Bid to Buy has not been accepted by or on behalf of the Seller in accordance with the Conditions at the date of such suspension shall be deemed not to have been sold;
  - 18.3.3** any contract relating to the sale and purchase of Bonsucro Credits for which a Bid to Buy has been accepted by or on behalf of a Seller shall not be affected provided that the Buyer pays the Buyer's Payment in accordance with the Conditions;
  - 18.3.4** where details of negotiations have been notified but not confirmed to Bonsucro or have been notified and confirmed to Bonsucro but an Off Market Sale or an FBO Trade has not been entered into at the time of the suspension, an Off Market Sale or FBO Trade shall not be entered into and notification and confirmation shall be deemed withdrawn;
  - 18.3.5** any Off Market Sale or FBO Trade which has been entered into at the time of the suspension in accordance with these Conditions shall not be affected provided the Buyer pays the Buyer's Payment in accordance with these Conditions; and
  - 18.3.6** Bonsucro shall continue to provide the Brokerage Services to the extent required pursuant to Conditions 18.3.3 and 18.3.5.
- 18.4** Conditions 17 and 19 shall survive suspension or termination of the contract for Brokerage Services.

## **19. Termination**

- 19.1** Bonsucro may terminate the right of any Bonsucro Member (Member) to access and use the Website with immediate effect if:
- 19.1.1** the Member commits a material breach of any material term of these Conditions and (if such breach is remediable) fails to remedy that breach within a period of 30 Business Days after being notified to do so; or
  - 19.1.2** the Member challenges the Intellectual Property Rights in the Name and/or Logo at any time, or

- attempts to register or registers any intellectual property rights that are similar to or the same as the Name and/or Logo, or does so in any other language, whether as a trade mark or domain name; or
- 19.1.3 the Member fails to comply with the Bonsucro Claims and Labelling Rules; or
- 19.1.4 the Member suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply; or
- 19.1.5 the Member commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors; or
- 19.1.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Member (being a company); or
- 19.1.7 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Member (being a company); or
- 19.1.8 a person becomes entitled to appoint a receiver over the assets of the Member or a receiver is appointed over the assets of the Member; or
- 19.1.9 the Member (being an individual) is the subject of a bankruptcy petition or order; or
- 19.1.10 any event occurs, or proceeding is taken, with respect to the Member in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clauses 19.1.4 to 19.1.9 (inclusive); or
- 19.1.11 the Member suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- 19.1.12 the Member (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

## **20. Limitation of Liability**

- 20.1 The provisions of Conditions 12.4, 13.5 and this Condition 19 set out the entire liability of Bonsucro to the Seller or the Buyer, as applicable, (including any liability for the acts or omissions of its employees, agents and sub-contractors) in respect of:
  - 20.1.1 any breach of these Conditions; and
  - 20.1.2 any representation, statement or tortious act or omission including negligence arising under or in connection with the contract between Bonsucro and the Seller or the Buyer, as applicable, for the provision of the Brokerage Services.
- 20.2 All warranties, conditions and other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 20.3 Nothing in these Conditions excludes or limits the liability of Bonsucro for death or personal injury caused by Bonsucro's negligence or for fraudulent misrepresentation or for any other liability which cannot be excluded or limited under English law.

### **THE ATTENTION OF THE SELLER AND THE BUYER, AS APPLICABLE, IS IN PARTICULAR DRAWN TO THE FOLLOWING PROVISIONS OF THIS CONDITION 20**

- 20.4 If as a result of the Brokerage Services provided by Bonsucro the Seller or the Buyer contracts for the sale or purchase of Bonsucro Credits on terms other than the terms of the Buyer's Bid to Buy or the Seller's Offer to Sell, as applicable, or other terms agreed by the Buyer and the Seller and notified to Bonsucro, Bonsucro shall be entitled to cancel or dissolve such contract.
- 20.5 If as a result of the Brokerage Services provided by Bonsucro the Seller contracts for the sale of Bonsucro Credits in excess of the number of Bonsucro Credits for which the Seller had made an Offer to Sell, Bonsucro shall be entitled to cancel or dissolve in whole or in part the contracts necessary to reduce the number of Bonsucro Credits sold by the Seller to the number in respect of which the Seller has made an Offer to Sell. The last contract entered into by the Seller (identified by the date and time on which that contract was entered into) shall be cancelled or dissolved first. If necessary earlier contracts shall be cancelled or dissolved in whole or in part. In each case the contract selected shall be the latest existing contract entered into as identified by date and time.
- 20.6 Following any cancellation or dissolution pursuant to Condition 20.4 or 20.5:
  - 20.6.1 the Bonsucro Credits the subject of that contract shall belong to the Seller; and

- 20.6.2 if Bonsucro has paid sums due under the contract to the Seller, the Seller will repay that sums to Bonsucro with 14 days of a written request; and
  - 20.6.3 Bonsucro shall repay to the Buyer any sums paid by the Buyer pursuant to that contract which have not been paid to the Seller and shall forward to the Buyer any sums received from the Seller pursuant to Condition 20.6.2; and
  - 20.6.4 Bonsucro shall not have any further liability to the Seller or to the Buyer in respect thereof; and
  - 20.6.5 Bonsucro shall not have any obligation to repay the Brokerage Fee.
- 20.7 Subject to Conditions 13.5, 20.2, 20.3, 20.4, 20.5 and 20.6:
- 20.7.1 Bonsucro's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the provision of or failure to provide Brokerage Services shall be limited to the Brokerage Fees on the sale and purchase of the Bonsucro Credits in respect of which the liability arises;
  - 20.7.2 Bonsucro shall not be liable for loss of profit, goodwill or business opportunity or loss of or damage to reputation of the Seller or the Buyer, as applicable, or any type of indirect or consequential loss or damage, costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the provision of or failure to provide Brokerage Services.
- 20.8 Should any limitation of liability or provision contained in this Condition 20 be held to be invalid under any applicable statute or rule of law it shall, to that extent, be deemed omitted, but if Bonsucro thereby becomes liable for loss or damage which would otherwise have been excluded or limited, as the case may be, that liability should be subject to the other applicable limitations and provisions set out in this Condition 20.

## **21. Periodic Maintenance, Events beyond Bonsucro's Control and Cessation of the Service**

- 21.1 Bonsucro reserves the right:
- 21.1.1 to suspend or extend the time for performance of all or any of the Brokerage Services to permit periodic maintenance to be carried out on the Website or on any equipment used by Bonsucro in the provision of Brokerage Services; and
  - 21.1.2 to suspend or extend the time for performance of all or any of the Brokerage Services or to terminate the contract with the Seller or Buyer, as applicable, for the provision of the Brokerage Services or the use of the Website without liability if Bonsucro is prevented from or delayed in providing those services or the Website due to circumstances in any part of the world beyond the reasonable control of Bonsucro including, without limitation, acts of God, governmental actions, war or national emergency, riot, civil commotion, terrorism, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to Bonsucro's personnel), or failure in any equipment or telecommunications system.
- 21.2 Without prejudice to any of its rights of termination under clause 20 of these Conditions, Bonsucro may, in its sole discretion, cease providing the Brokerage Services and the Website, upon giving not less than three months' notice to all Sellers and Buyers, that notice being made available on the Website, in both the Public Section and the Members' Section.

## **22. Variation of the Conditions**

Bonsucro may vary these Conditions at any time by publishing on the Website an amended version of these Conditions and the date from which these Conditions as varied shall apply. The Seller and the Buyer shall each be deemed to have accepted such variation from the date specified on the Website and all Offers to Sell and all Bid to Buys received by Bonsucro from that date will be on these Conditions as varied by the notice.

## **23. General**

- 23.1 Neither the Seller nor the Buyer shall assign all or any part of any contract with Bonsucro for the provision of Brokerage Services without the prior written consent of Bonsucro.
- 23.2 Bonsucro shall be entitled to assign all or any part of any contract with the Seller or the Buyer for the provision of Brokerage Services or sub-contract all or any part of the performance of the Brokerage Services to any person, firm or company.
- 23.3 In the event of any conflict or inconsistency between these Conditions and the Membership Rules, in matters relating to the sale or purchase of Bonsucro Credits these Conditions shall have priority.
- 23.4 If any provision of the contract between Bonsucro and the Seller or the Buyer for the provision of Brokerage Services is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the contract and the remainder of such provision shall continue in full force and effect.

- 23.5 Failure or delay by Bonsucro in enforcing or partially enforcing any provision of the contract between Bonsucro and the Seller or the Buyer, as applicable, for the provision Brokerage Services will not be construed as a waiver of any of its rights under such contract.
- 23.6 Any waiver by Bonsucro of any breach by the Seller or the Buyer of, or any default by either of them under, any provision of any contract between Bonsucro and the Seller or the Buyer, as applicable, for the provision of Brokerage Services will not be deemed a waiver of any subsequent breach or default and will not in any way affect the other terms of such contract.
- 23.7 Any notice required or permitted to be given by either party to the other under these Conditions shall be sent through the Website or otherwise in accordance with the Membership Rules.
- 23.8 Nothing in these Conditions confers on any third party any benefit or any right to enforce any of these Conditions save that in the event of assignment by Bonsucro of any contract between the Seller or the Buyer and Bonsucro relating to the provision of Brokerage Services the assignee of those Brokerage Services shall be entitled to enforce these Conditions against any Buyer or Seller.
- 23.9 The formation, existence, construction, performance, validity and all aspects of any contract between Bonsucro and the Seller or the Buyer for the provision Brokerage Services shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.