

Circularity Terms of Use

Version 1 (1 January 2017)

This is important:

- Where you finance a Project, a Recycling Contract is formed between the Producer, Reprocessor and Ecosurety.
- Circularity is a recycling financing platform only and Ecosurety does not monitor or enforce performance of obligations relating to Project Activities under Recycling Contracts between Producers and Reprocessors.
- Circularity is not a platform through which regulated investments are offered. We are not authorised or regulated by the Financial Conduct Authority. There is no recourse to either the Financial Ombudsman Service or the Financial Services Compensation Scheme.

Part A: Introduction

The Clauses in this Part A (Introduction) of these Terms of Use explain how these Terms of Use apply to your use of Circularity.

1. **Circularity** is an online recycling financing platform available at circularity.com and operated by Ecosurety Limited, registered in England and Wales (no. 04713606) whose registered office is 160 Aztec West, Almondsbury, Bristol, BS32 4TU (**we, us** or **our** as appropriate). For further information about us and our contact details, please visit the [About Us](#) page.
2. Subject to Part E (Recycling Contract) and Part F (Member Amendments), in these Terms of Use the words listed below shall have the meanings given here:
 - 2.1. **Circularity** means the online platform exclusively for Users that enables Producers to finance recycling or reprocessing Projects proposed by Reprocessors in exchange for PRNs in accordance with these Terms of Use and the applicable Recycling Contract;
 - 2.2. **Circularity Fees** means the fees per PRN payable to us by Producers and Reprocessors for our role in each Project;
 - 2.3. **Circularity Producer Limit** means the maximum amount of finance that a User is permitted to provide through Circularity as determined by us in our absolute discretion and expressed as a maximum number of PRNs;
 - 2.4. **Compliance Scheme** means "scheme" for the purposes of and in accordance with the Packaging Regulations;
 - 2.5. **Compliance Year** means a 12 month period from 1 January to 31 December;
 - 2.6. **Created, Creation and Create** means uploading and publishing by us on Circularity of a Project so that Users may see the content and provide financing;
 - 2.7. **Created Project** means a Project which has been Created;
 - 2.8. **Direct Registrant** means Producers who register directly with the Environment Agency, and not with a Compliance Scheme, for the purposes of fulfilling their producer obligations under the Packaging Regulations;
 - 2.9. **Ecosurety Members** means Producers who are members of Ecosurety's Compliance Scheme under a Membership Agreement during the Compliance Year relevant to the Project;
 - 2.10. **Funding Deadline** means the final date for the Reprocessor to receive funding for a Project;
 - 2.11. **Funding Maximum** means the maximum amount of money which the Reprocessor is seeking to finance the Project Activities;
 - 2.12. **Funding Minimum** means the minimum amount of money which the Reprocessor is seeking to carry out the Project Activities which will be 75% of the Funding Maximum;
 - 2.13. **Membership Agreement** means a contract between a Producer and us for membership of our Compliance Scheme.
 - 2.14. **Packaging Regulations** means the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 in force in England and Wales, the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007, the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 in force in Scotland as appropriate to the jurisdiction in which you are operating, including any subordinate legislation made under them or any amendments, re-enactments or consolidation thereof;

- 2.15. **PRN** has the meaning given in the Packaging Regulations;
 - 2.16. **Producer** means a person who is a producer for the purposes of and in accordance with the Packaging Regulations and who, if a User, may use Circularity to finance Projects through purchasing PRNs;
 - 2.17. **Project** means a recycling or reprocessing project proposed by a Reprocessor for financing by Producers in accordance with these Terms of Use;
 - 2.18. **Project Activities** means the activities that a Reprocessor will carry out as part of a Project;
 - 2.19. **Project Completion Deadline** means the date by which the Reprocessor will complete the Project and issue the final Project Report;
 - 2.20. **Project Market Price** means the price per PRN for a Project calculated reference to the Reported Market Price for the day on which the Project was Created;
 - 2.21. **Project Period** means the period during which a Project will be carried out;
 - 2.22. **Project Premium** means the difference between the Project Price and the Project Market Price for all PRNs funded by a Producer in respect of a particular Project;
 - 2.23. **Project Price** means the price per PRN that the Producer will pay for PRNs delivered by the Reprocessor as part of the Project;
 - 2.24. **Project Report** means the report produced by a Reprocessor explaining the Project Activities undertaken by the Reprocessor and the results of the Project;
 - 2.25. **Project Report Template** means the template for a Project Report setting out the information that must be contained in a Project Report provided on the Website;
 - 2.26. **Recycling Contract** means the contract formed between us, a Producer and a Reprocessor when the Producer commits to financing the Reprocessor's Project;
 - 2.27. **Reported Market Price** means the market price stated on the Website for the relevant type of PRN;
 - 2.28. **Reprocessor** means a person who is an accredited reprocessor for the purposes of and in accordance with the Packaging Regulations who, if a User, may use Circularity to obtain finance for Projects that contribute to generating PRNs;
 - 2.29. **Terms of Use** means these terms of use together with the Privacy Policy and Cookies Policy as may be amended from time to time in accordance with these Terms of Use;
 - 2.30. **Users** means **Reprocessors** and/or **Producers**, as the context requires, who have registered and are therefore authorised to use Circularity;
 - 2.31. **Website** means www.circularity.com;
 - 2.32. **We, us or our** (as appropriate) means Ecosurety Limited, registered in England and Wales (no. 04713606) whose registered office is 160 Aztec West, Almondsbury, Bristol, BS32 4TU
 - 2.33. **You or Your** (as appropriate) means Users or anyone accessing the Website who is not a User as the context requires.
3. These Terms of Use are organised into 6 parts:
 - 3.1. Part A (Introduction) and Part B (Using the Website) apply to all Users and to anyone accessing the Website.
 - 3.2. Part C (Rules for Registration) applies to Users only and governs registration as a User of Circularity
 - 3.3. Part D (Rules for Projects) applies to Users only in relation to proposing and financing Projects
 - 3.4. Part E (Recycling Contract) applies to Users only and sets out the terms of the Recycling Contract
 - 3.5. Part F (Ecosurety Members) applies to Ecosurety Members only and sets out the amendments to the Recycling Contract that apply where a User is an Ecosurety Member
 4. These Terms of Use are important – please read them carefully! These Terms of Use apply to the entire contents of the Website, to using Circularity and to any correspondence by e-mail between us and you relating to Circularity. Without prejudice to Part E (Recycling Contract) Clause 3.5, we retain the right, acting reasonably, to modify these Terms of Use at any time and will notify you by e-mail. It is your responsibility to check these Terms of Use for amendments.
 5. By using the Website, you confirm that you accept these Terms of Use and that you agree to comply with them. If you are using the Website in connection with your organisation, the terms 'you', 'your' or 'your organisation' in these Terms of Use are also a reference to the entity on whose behalf you act when using, registering, proposing or financing a Project through Circularity. If you do not want to be bound (or your organisation, where applicable, to be bound)

by these Terms of Use then please do not access, use and/or contribute any content to the Website or interact with Users or anyone else through it.

6. General

- 6.1. Without prejudice to Part E (Recycling Contract) and Part F (Ecosurety Members), these Terms of Use (including the Privacy Policy and Cookies Policy) supersede all previous agreements, promises and understandings relating to Circularity between you and us.
- 6.2. If any provision (or part of any provision) is held to be invalid or unenforceable, such provision shall be struck out and the remaining provisions will continue in force.
- 6.3. You acknowledge that you are an equivalent contracting party and the limitations in these Terms of Use are necessary and appropriate in order to allow us to provide Circularity to you.
- 6.4. Nothing in these Terms of Use is intended to or shall operate to create any partnership, agency, employment or joint venture between you and us.
- 6.5. A person who is not party to these Terms of Use shall have no rights under the Contracts (Rights of Third Parties) Act 1999.
- 6.6. These Terms of Use, their subject matter and their formation, are governed by English law. You and we agree that the courts of England and Wales will have exclusive jurisdiction.

Part B: Using the Website

The Clauses in this Part B (Using the Website) of these Terms of Use explain the basis upon which we are prepared to allow you to access the Website.

1. Website use
 - 1.1. These Terms of Use (together with the Privacy Policy and Cookies Policy) are the terms of use in accordance with which you may make use of our Website, whether as a User or as anyone else accessing the Website.
2. Changes to the Website
 - 2.1. We may update our Website from time to time, and may change the content at any time.
 - 2.2. Please note that any of the content on our Website may be out of date at any given time, and we are under no obligation to update it.
 - 2.3. We do not guarantee that our Website, or any content on it, will be free from errors or omissions.
3. Accessing the Website
 - 3.1. Parts of our Website are made available free of charge. Some functions and areas are subject to registration and other fees.
 - 3.2. We do not guarantee that our Website, or any content on it, will always be available or be uninterrupted.
 - 3.3. Access to our Website is permitted on a temporary basis. We may suspend, withdraw, discontinue or change all or any part of our Website without notice. We will not be liable to you if for any reason our Website is unavailable at any time or for any period.
 - 3.4. You are responsible for making all arrangements necessary for you to have access to our Website.
 - 3.5. You are also responsible for ensuring that all persons who access our Website through your internet connection are aware of these Terms of Use and that they comply with them.
 - 3.6. We may limit the availability of our Website or any service or product described on our Website to any person or geographic area at any time. If you choose to access our Website from outside the United Kingdom, you do so at your own risk.
4. Intellectual property rights
 - 4.1. We are the owner or the licensee of all intellectual property rights in our Website, and in the material published on it. Those works are protected by copyright laws and treaties around the world. All such rights are reserved.
 - 4.2. You must not use any part of the content on our Website for commercial purposes outside the financing of Projects by Users without obtaining a licence to do so from us or our licensors and our status (and that of any identified contributors) as the authors of content on our Website must always be acknowledged.
5. No reliance on information

- 5.1. The content on our Website is provided for general information only. It is not intended to amount to advice on which you should rely. You must obtain professional or specialist advice before taking, or refraining from, any action on the basis of the content on our Website.
 - 5.2. We make no representations, warranties or guarantees, whether express or implied, that the content on our Website is accurate, complete, verified or up-to-date.
7. Limitation of our liability in relation to the Website
 - 7.1. This Clause 7 of this Part B (Using the Website) is without prejudice to Part E (Recycling Contract) Clause 15.
 - 7.2. Nothing in these Terms of Use excludes or limits our liability for death or personal injury arising from our negligence, or our fraud or fraudulent misrepresentation, or any other liability that cannot be excluded or limited by English law.
 - 7.3. To the extent permitted by law, we exclude all conditions, warranties, representations or other terms which may apply to our Website or any content on it, whether express or implied.
 - 7.4. We will not be liable to any user for any loss or damage, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, even if foreseeable, arising under or in connection with:
 - 7.4.1. use of, or inability to use, our Website; or
 - 7.4.2. use of or reliance on any content displayed on our Website.
 - 7.5. Without prejudice to the generality of 7.3 and 7.4 above, we will not be liable for:
 - 7.5.1. loss of profits, sales, business, or revenue;
 - 7.5.2. business interruption;
 - 7.5.3. loss of anticipated savings;
 - 7.5.4. loss of business opportunity, goodwill or reputation; or
 - 7.5.5. any indirect or consequential loss or damage.
 - 7.6. We will not be liable for any loss or damage caused by a virus, distributed denial-of-service attack, or other technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of our Website or to your downloading of any content on it, or on any website linked to it.
 - 7.7. We assume no responsibility for the content of websites linked on our Website. Such links should not be interpreted as endorsement by us of those linked websites. We will not be liable for any loss or damage that may arise from your use of them.
 8. Uploading content to the Website and communications
 - 8.1. Whenever you make use of a feature that allows you to upload content to our Website, or to make contact with other users of our Website, you must comply with the spirit and letter of content standards set out in this Clause:
 - 8.2. You may not use the Website:
 - 8.2.1. In any way that breaches any law applicable in the United Kingdom;
 - 8.2.2. In any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;
 - 8.2.3. To send, knowingly receive, upload, download, use or re-use any material which does not comply with these Terms of Use;
 - 8.2.4. To advertise, promote, market solicit orders for or offer to buy, sell, lease or license products, goods and facilities outside Circularity;
 - 8.2.5. To transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (spam);
 - 8.2.6. To harvest, aggregate, mine, copy or otherwise collect information about others, including but not limited to names, email addresses, passwords, telephone numbers and usage information without their consent.
 - 8.3. Your contributions and communications must be accurate (where they state facts) and be genuinely held (where they state opinions).
 - 8.4. Your contributions and communications must not:
 - 8.4.1. Contain any material which is defamatory, offensive or discriminatory;
 - 8.4.2. Infringe any copyright, database right or trade mark of any other person;
 - 8.4.3. Be likely to deceive or misrepresent;
 - 8.4.4. Be made in breach of any legal duty owed to a third party, such as a contractual duty or a duty of confidence.
 - 8.4.5. Promote any illegal activity;

- 8.4.6. State expressly or imply that any statements you make are endorsed by or emanate from us without our specific prior written consent.
 - 8.5. You warrant that any such contribution or communication does comply with the above standards, and you will be liable to us and indemnify us for any breach of that warranty. If you are a consumer user, this means you will be responsible for any loss or damage we suffer as a result of your breach of warranty.
 - 8.6. We reserve the right to disclose your identity to any third party who claims that any content posted or uploaded by you to our Website constitutes a violation of their intellectual property rights.
 - 8.7. We have the right to remove any content you make on our Website if, in our opinion, your content does not comply with the content standards set out in this Clause 8.
 - 8.8. The views expressed by other users on our Website do not represent our views or values.
 - 8.9. You are solely responsible for securing and backing up your content.
9. Rights you licence relating to the Website
- 9.1. When you upload or post content to our Website ("**User Generated Content**"), you grant us a perpetual, worldwide, non-exclusive royalty-free, transferable licence to use, reproduce, distribute, prepare derivative works of, display, and perform that User Generated Content in connection with our Website our services and across different media and also to use that User Generated Content for the purposes of promoting our Website and our services.
 - 9.2. In relation to User Generated Content, you also grant a perpetual, worldwide, non-exclusive royalty-free, transferable licence to use, reproduce, distribute, prepare derivative works of, display, and perform that User Generated Content to third parties authorised by us to use the User Generated Content for our purposes or in relation to the functionality of the Website. Without prejudice to Clause 7, we shall not be liable for the use of User Generated Content by Users or third parties.
10. Viruses
- 10.1. We do not guarantee that our Website will be secure or free from bugs or viruses.
 - 10.2. You are responsible for configuring your information technology, computer programmes and platform in order to access our Website. You should use your own virus protection software.
 - 10.3. You must not misuse our Website by knowingly introducing viruses, trojans, worms, logic bombs or other material which is malicious or technologically harmful.
 - 10.4. You must not attempt to gain unauthorised access to our Website, the server on which our Website is stored or any server, computer or database connected to our Website.
 - 10.5. You must not attack our Website via a denial-of-service attack or a distributed denial-of-service attack.
 - 10.6. By breaching this provision, you may commit a criminal offence under the Computer Misuse Act 1990. We will report any such breach to the relevant law enforcement authorities and we will co-operate with those authorities by disclosing your identity to them. In the event of such a breach, your right to use our Website will cease immediately.
11. Linking to the Website
- 11.1. You may link to our home page, provided you do so in a way that is fair and legal and does not damage our reputation or take advantage of it.
 - 11.2. You must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part where none exists.
 - 11.3. You must not establish a link to our Website in any website that is not owned by you.
 - 11.4. Our Website must not be framed on any other Website, nor may you create a link to any part of our Website other than the home page.
 - 11.5. We reserve the right to withdraw linking permission without notice and for any reason.
 - 11.6. The website in which you are linking must comply in all respects with the content standards set out in Clause 8 of this Part B (Using the Website).
 - 11.7. If you wish to make any use of content on our Website other than that set out above, please contact info@circularety.com
12. Third party links and resources in the Website
- 12.1. Where our Website contains links to other sites and resources provided by third parties, these links are provided for your information only. We have no control over the contents of those sites or resources.

Part C: Rules for Registration

The Clauses in this Part C (Rules for Registration) of these Terms of Use explain the rules relating to registration for Users of Circularety.

1. Requirement to register
 - 1.1. No one is permitted to use Circularety without completing registration to become a User.
2. Completing User registration
 - 2.1. The process for registration will be through the Website or through any other means approved by us.
 - 2.2. Completion of registration of anyone as a User is subject to approval by us.
 - 2.3. We reserve the right to refuse to approve anyone seeking to register as a User for any reason (acting reasonably). Clause 3 of this Part C (Rules for Registration) sets out the circumstances where we are likely to refuse approval.
 - 2.4. You must make sure that all the information you provide when you register with is true, accurate, current and complete.
 - 2.5. You may be required to supply documents to prove your identity and your authority to Circularety.
 - 2.6. Our approval of you as a User and completion of your registration may be notified to you by an email confirming your username and password for accessing Circularety.
3. Circumstances for refusing to register Reprocessors and Producers
 - 3.1. We are likely to refuse to approve your registration as a User or revoke your account (if you are already a User) in any of the following circumstances:
 - 3.1.1. You are a Producer but are not a Direct Registrant or an Ecosurety Member;
 - 3.1.2. You are under 18 years old;
 - 3.1.3. You have a low credit rating according to CreditSafe or another reputable agency;
 - 3.1.4. You have been investigated or prosecuted for an environmental offence;
 - 3.1.5. You have previously been a User and your registration has been revoked;
 - 3.1.6. We have reason to believe that you have supplied inaccurate information as part of your registration (whether deliberately or accidentally);
 - 3.1.7. We have reason to believe that you do not intend to comply with these Terms of Use or the spirit and aims of Circularety;
 - 3.1.8. We have reason to believe that your usage of Circularety would adversely affect the reputation of Circularety or us.
4. Your User account
 - 4.1. Your account is for your use only.
 - 4.2. You must keep your login details confidential and not share or disclose them to any third party.
 - 4.3. You must not leave any device unattended whilst logged into Circularety.
 - 4.4. You will be held responsible for all activities that occur under your password or account (with or without your knowledge) as a result of a breach of these Terms of Use. If you become aware of any misuse or unauthorised use of your account, then you must notify us immediately at info@circularety.com.
 - 4.5. If any details forming part of your registration information change (e.g. email address, postal address), then you must update your account information as soon as reasonably practicable.
5. Producer PRN information
 - 5.1. As an on-going requirement of registration, Users who are Producers must provide their total PRN requirement (in tonnes) in accordance with the Packaging Regulations for each Compliance Year during which they wish to be registered as a User.
 - 5.2. Users must provide information to verify their total PRN requirement where we request this.
 - 5.3. Without prejudice to any Membership Agreement between you and us, we do not accept any responsibility for calculating or verifying a User's total PRN requirement.
6. Use of your company name
 - 6.1. By becoming a User you agree that we may use your company name and logo in our publicity materials to promote Circularety.
7. Suspension, revocation and deletion of User accounts
 - 7.1. We have the right to suspend or revoke your account at any time if we have reason to believe that you have, may or will act in breach of these Terms of Use. The consequences

of suspension and revocation of your account in relation to any Projects is set out at Part D (Rules for Projects) Clause 11.

- 7.2. You can request deletion of your account at any time provided that:
 - 7.2.1. If you are Reprocessor, you do not have any current Projects and have no PRNs that have not yet been delivered on any Recycling Contracts in accordance with the terms of those Recycling Contracts;
 - 7.2.2. If you are a Producer, you do not have any outstanding invoices in respect of any Recycling Contracts.Please email us to request deletion of your account.
- 7.3. We reserve the right to delete your account. Any personal data or other information associated with your use of Circularity will be held in accordance with the UK Data Protection Act 1998.

Part D (Rules for Projects)

The Clauses in this Part D (Rules for Projects) of these Terms of Use explain the rules relating to proposing and financing Projects

1. Purpose of Circularity and our role
 - 1.1. Circularity is an online platform exclusively for Users that enables Producers to finance recycling or reprocessing Projects proposed by Reprocessors in exchange for PRNs in accordance with these Terms of Use and the applicable Recycling Contract.
 - 1.2. Without prejudice to Part E (Recycling Contract), we:
 - 1.2.1. do not verify any information and do not make any representations as to the accuracy or completeness of any information provided regarding Projects;
 - 1.2.2. do not accept any responsibility for the nature or quality of a Project;
 - 1.2.3. do not accept any responsibility for Project Activities;
 - 1.2.4. do not accept any responsibility for the Users of Circularity;
 - 1.2.5. do not verify the identity of anyone who becomes a User and do not promise or represent that any User will comply with these Terms of Use, perform any Recycling Contract or otherwise do as they promise.
2. Proposing a Project
 - 2.1. Only Users who are Reprocessors are permitted to propose Projects.
 - 2.2. Projects must be proposed using the dedicated Website form.
 - 2.3. The following details must be provided for each Project in accordance with these Terms of Use:
 - 2.3.1. the Project Activities
 - 2.3.2. the Funding Maximum
 - 2.3.3. the Project Price (per PRN)
 - 2.3.4. the total number of PRNs available
 - 2.3.5. the Funding Deadline
 - 2.3.6. the Project Completion Deadline
 - 2.4. Users proposing a Project must supply contact details to enable us to contact the User with any questions.
 - 2.5. We will endeavour to Create Projects within two (2) working days from the submission of the form or from receipt of responses to all questions, whichever is later.
 - 2.6. The Creation of a Project constitutes a binding offer to enter a contract under the terms of the Recycling Contract made to all Users who are Producers at any point during the duration of the Project.
 - 2.7. A User proposing a Project acknowledges that we will, and that Users will, rely on the information that they provide through Circularity. Such Users warrant and represent that any information provided is accurate and complete.
3. Project Activities
 - 3.1. Users proposing a Project must comply with the following Project rules:
 - 3.1.1. A Project must consist of Project Activities consistent with the approved business plan of the Reprocessor pursuant to Section 24(1)(c) of the Packaging Regulations such as:

- 3.1.1.1. the development of capacity for the collection and reprocessing of packaging waste and the development of new markets for materials or goods which have been made from recycled packaging waste;
 - 3.1.1.2. arrangements for the collection and sorting of packaging waste; and
 - 3.1.1.3. the strategy, including communications, to be adopted in order to achieve the matters described in 3.1.1.1 and 3.1.1.2 above.
 - 3.1.2. The Project Activities must not:
 - 3.1.2.1. have already been carried out;
 - 3.1.2.2. be included already within another Project proposed on Circularity.
4. Project Market Price
 - 4.1. The Project Market Price for a Recycling Contract will be set by us at the point that a Project is Created.
5. Funding Minimum, Funding Maximum and Funding Deadline
 - 5.1. The User proposing a Project must specify a Funding Maximum and Funding Deadline for that Project. The Funding Minimum will be 75% of the Funding Maximum.
 - 5.2. The Funding Deadline cannot be later than 23:59 on 30 November of the Compliance Year in which the PRNs for the Project will be issued.
 - 5.3. Regardless of whether or not the User receives the Funding Minimum, the User whose Project has been Created will be required under the Recycling Contract to deliver any PRNs for which it has received funding at the Project Market Price.
 - 5.4. Where the Created Project does not receive the Funding Minimum by the Funding Deadline, the User whose Project was Created will be required under the Recycling Contract to deliver the PRNs for which it has received funding and will be entitled to be paid the Project Market Price but will not be required to carry out the Project Activities and provide the Project Report and will not be entitled to be paid the Project Premium.
 - 5.5. Where the Created Project does receive the Funding Minimum by the Funding Deadline, the User whose Project was Created will be required under the Recycling Contract to deliver the PRNs for which it has received funding at the Project Market Price and to carry out the Project Activities and provide the Project Report and will be paid the Project Premium.
 - 5.6. A Created Project cannot receive funding above the Funding Maximum.
6. Project Completion Deadline and Project Report
 - 6.1. The User proposing a Project must specify a Project Completion Deadline.
 - 6.1.1. The Project Completion Deadline must be no later than six (6) months after the Funding Deadline for the Project.
 - 6.2. Where a User who has Created a Project is required to carry out the Project Activities in accordance with a Recycling Contract, such User must complete the Project Activities and produce Project Report by the Project Completion Deadline.
 - 6.3. Project Reports must contain the information set out in the Project Report Template provided on the Website at the time that the Project Report is delivered under the Recycling Contract.
 - 6.4. You agree that any Project Report may be used by us on the Website or elsewhere to promote us, Circularity and recycling.
7. Changes to Projects during the Project Period
 - 7.1. A User whose Project has been Created may only make changes to that Project during the Project Period in the following circumstances:
 - 7.1.1. A User may change the Project Price of PRNs available;
 - 7.1.2. A User may increase the Funding Maximum which will in turn increase the Funding Minimum provided that the Funding Minimum has not already been met;
 - 7.1.3. A User may, with our prior consent in writing, make amendments to correct any inaccurate information in a Project description in which case we will contact all Producers who have financed the Project to inform them of the changes.
 - 7.2. Subject to Clause 7.3 below, any changes made to a Created Project will not affect any Recycling Contracts already formed between Users in respect of that Project.

- 7.3. Where the Funding Maximum is increased and accordingly increases the Funding Minimum, the Project Funding Minimum for the purposes of the Recycling Contract shall also increase.
 - 7.4. A User may withdraw a Created Project by making a written request to info@circularety.com. Created Projects will be removed from the Website within two (2) working days from receipt of the request.
 - 7.5. Where a Created Project is withdrawn:
 - 7.5.1. no further Recycling Contracts shall be concluded in respect of that Project;
 - 7.5.2. there shall be no effect on any Recycling Contracts already formed between Users in respect of that Project.
8. Responsibility of a User whose Project is Created
- 8.1. A User whose Project is Created undertakes to and represents that the User will:
 - 8.1.1. comply with all aspects of the Terms of Use that are applicable to the Created Project;
 - 8.1.2. enter a Recycling Contract with each User who provides finance; and
 - 8.1.3. perform its obligations under that Recycling Contract.
9. Financing a Project
- 9.1. Only Users who are Producers are permitted to finance Projects.
 - 9.2. In each Compliance Year, Users are only permitted to use Circularety to finance a Project or Projects up to their Circularety Producer Limit.
 - 9.3. Projects must be financed through the dedicated financing web form on the Website.
 - 9.4. The submission of the dedicated financing web form on the Website to provide finance constitutes an acceptance of the offer and entry into the Recycling Contract with the relevant User whose Project has been Created in respect of the PRNs financed.
10. Circularety Fee
- 10.1. We shall apply the Circularety Fee of £1.00 for every PRN financed through Circularety, half of which is paid by Producers and half of which is paid by Reprocessors as follows:
 - 10.1.1. an initial 50% of the Circularety Fee shall be added to the Project Market Price and invoiced to each User who has committed to finance a Project.
 - 10.1.2. a further 50% of the Circularety Fee shall be retained from the Project Market Price when the Project Market Price is paid to the User whose proposed Project has been Created.
11. Project verification, suspension and removal
- 11.1. We reserve the right, but are not obliged, to attempt to verify information provided about Projects at any time and for any reason.
 - 11.2. We may, at our sole discretion, suspend or remove a Created Project if we consider that:
 - 11.2.1. you are not a Reprocessor;
 - 11.2.2. you are under 18 years old;
 - 11.2.3. you have a low credit rating according to CreditSafe or another reputable agency;
 - 11.2.4. you have been investigated or prosecuted for an environmental offence;
 - 11.2.5. your registration has been revoked;
 - 11.2.6. we have reason to believe that you have supplied inaccurate information as part of your Project (whether deliberately or accidentally);
 - 11.2.7. we have reason to believe that you do not intend to comply with these Terms of Use or the spirit and aims of Circularety;
 - 11.2.8. we have reason to believe that you do not intend to perform any Recycling Contract;
or
 - 11.2.9. we have reason to believe that your Project would adversely affect the reputation of Circularety or us.
 - 11.3. We will not be liable to you for any losses or costs whatsoever that you suffer or incur as a result of us taking any of the actions in Clause 7.2 of this Part D (Rules for Projects) above.
 - 11.4. Where we remove or suspend a Created Project:
 - 11.4.1. no further Recycling Contracts shall be concluded in respect of that Project; and
 - 11.4.2. there shall be no effect on any Recycling Contracts already concluded between Users in respect of that Project.

Part E (Recycling Contract)

The Clauses in this Part E (Recycling Contract) of these Terms of Use explain the rules relating to the contract formed between the Producer, the Reprocessor and us where a Producer commits to finance a Created Project

RECYCLING CONTRACT

1. Definitions:

1.1. The words listed in this Recycling Contract shall have the meanings given in the Terms of Use unless otherwise stated below:

- 1.1.1. **We, Us or Our** (as the context requires) means Ecosurety Limited, registered in England and Wales (no. 04713606), whose registered office is 160 Aztec West, Almondsbury, Bristol, BS32 4TU;
- 1.1.2. **Compliance Scheme** means “scheme” for the purposes of and in accordance with the Packaging Regulations;
- 1.1.3. **Compliance Year** means a 12 month period from 1 January to 31 December;
- 1.1.4. **Confirmation Email** means the email generated by Circularety or said by us to the Parties to confirm the Contracting Producer, Contract Project, Contract Price, Contract PRNs, Contracting Reprocessor, Contract Market Price, Project Completion Deadline and whether the Member Amendments apply to this Recycling Contract;
- 1.1.5. **Contracting Producer** means the Party to this Recycling Contract who accepted the offer proposed by the Contracting Reprocessor through Circularety as set out in the Confirmation Email;
- 1.1.6. **Contracting Reprocessor** means the Party to this Recycling Contract whose offer was accepted by the Contracting Producer through Circularety;
- 1.1.7. **Contract Market Price** means the price per tonne for the PRN type of the Contract PRNs which shall be the calculated reference to the Project Market Price for the Project in accordance with the Terms of Use and set out in the Confirmation Email;
- 1.1.8. **Contract Price** means the amount to be paid by the Producer for the Contract PRNs, which includes the financing for the Project, as set out in the Confirmation Email;
- 1.1.9. **Contract PRNs** means the PRNs to be delivered by the Contracting Reprocessor to the Contracting Producer as set out in the Confirmation Email and each such PRN shall be a Contract PRN;
- 1.1.10. **Contract Project** means the Project proposed by the Contracting Reprocessor through Circularety as set out in the Confirmation Email;
- 1.1.11. **Deliver, Delivered and Delivery** means the issuing of PRNs which meet the requirements at Clauses 5.5.1 and 5.5.2 on the National Packaging Waste Database;
- 1.1.12. **Ecosurety Member** means a Contracting Producer who is a member of Ecosurety’s Compliance Scheme under a Membership Agreement during the Compliance Year relevant to the Recycling Contract;
- 1.1.13. **Ecosurety Producer Fee** means the fee of £0.50 for each Contract PRN;
- 1.1.14. **Ecosurety Reprocessor Fee** means the fee of £0.50 for each Contract PRN;
- 1.1.15. **Insolvency Event** means where any Party is unable to pay its debts as defined by Sections 123(1) and 268(1) of the Insolvency Act 1986 as amended or any corporate action, legal proceedings or other procedure or step is taken in relation to:
 - 1.1.15.1. the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) other than a solvent liquidation or reorganisation;
 - 1.1.15.2. the commencement of negotiations with one or more of your creditors with a view to rescheduling any of your indebtedness by reason of actual or anticipated financial difficulties;
 - 1.1.15.3. the cessation or threat to cease to carry on business or apply for an interim order under Section 252 Insolvency Act 1986 or have a bankruptcy petition presented against you;
 - 1.1.15.4. a composition, assignment or arrangement with any creditor;

- 1.1.15.5. the appointment of a liquidator, trustee in bankruptcy, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of you or any of your assets; or
- 1.1.15.6. the enforcement of any security over any of your assets, or any analogous procedure or step is taken in any jurisdiction, or the making of an application or the giving of any notice by you or by any other person in respect of any of these circumstances.
- 1.1.16. **Member Amendments** means the amendments to this Recycling Contract that apply where the Contracting Producer is an Ecosurety Member set out at Part F (Ecosurety Members) of the Terms of Use;
- 1.1.17. **Membership Agreement** means the contract between the Contracting Producer and Us for membership of Our Compliance Scheme;
- 1.1.18. **Packaging Regulations** means the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 in force in England and Wales, the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007, the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 in force in Scotland as appropriate to the jurisdiction in which you are operating, including any subordinate legislation made under them or any amendments, re-enactments or consolidation thereof;
- 1.1.19. **Parties** means us, the Contracting Producer and Contracting Reprocessor, and each shall be a **Party**;
- 1.1.20. **Project Activities** means the activities that the Contracting Reprocessor will carry out as part of the Contract Project if the Project Funding Minimum is met;
- 1.1.21. **Project Funding Minimum** means the minimum amount of money which the Contracting Reprocessor is seeking to carry out the Project Activities, which amount may change in accordance with the provisions of the Terms of Use governing changes to the Funding Minimum;
- 1.1.22. **Project Premium** means the premium for the Project Activities where the Contract Price minus the Contract Market Price is a positive number;
- 1.1.23. **Project Report** means the report produced by the Contracting Reprocessor explaining the Project Activities undertaken by the Contracting Reprocessor and the results of the Project in accordance with the Terms of Use Part D (Rules for Projects) Clause 6.3;
- 1.1.24. **Recycling Contract** means this contract;
- 1.1.25. **Terms of Use** means the terms and conditions for use of Circularity in place at the time that this Recycling Contract was formed.

2. Parties:

2.1. The Parties to this Recycling Contract are:

- 2.1.1. Us
- 2.1.2. the Contracting Reprocessor
- 2.1.3. the Contracting Producer

3. Formation and Status

- 3.1. The Recycling Contract is formed when the Contracting Producer accepts the offer of the Contracting Reprocessor through the financing web form on Circularity in accordance with the Terms of Use.
- 3.2. Where there is a conflict between this Recycling Contract and the Terms of Use, this Recycling Contract shall take precedence.
- 3.3. Where the Contracting Producer is an Ecosurety Member, the Member Amendments shall apply and shall be incorporated into this Recycling Contract.
- 3.4. No other terms or conditions put forward at any time by the Contracting Producer or Contracting Reprocessor shall form any part of this Recycling Contract.
- 3.5. Subject to Clause 3.3, no variation of this Recycling Contract shall be binding unless agreed between the Parties in writing and changes to the Terms of Use after formation of this Recycling Contract shall not vary this Recycling Contract.

4. Our Role
 - 4.1. Our role in this Recycling Contract shall be to facilitate the Contracting Producer's payment of the Contract Price to the Contracting Reprocessor and to facilitate the Contracting Reprocessor's Delivery of the Contract PRNs to the Contracting Producer.
 - 4.2. We have no role or obligations to monitor, verify or procure that the Project Activities are carried out or that the Project Report is provided.

5. Delivery of Contract PRNs
 - 5.1. As soon as reasonably practicable after this Recycling Contract is formed in accordance with Clause 3.1, We shall issue an invoice to the Contracting Producer for:
 - 5.1.1. the Contract Price;
 - 5.1.2. the Ecosurety Producer Fee; and
 - 5.1.3. any applicable VAT.
 - 5.2. Within seven (7) calendar days of the date of the invoice under Clause 5.1, the Contracting Producer shall pay the invoice in full.
 - 5.3. As soon as reasonably practicable after full payment is received under Clause 5.2, We shall notify the Contracting Reprocessor that the Contracting Reprocessor is required to Deliver the Contract PRNs to the Contracting Producer and the amount to be stated in the invoice from the Contracting Reprocessor to Us consisting of the Contract Market Price minus the Ecosurety Reprocessing Fee;
 - 5.4. The Contracting Reprocessor shall Deliver the Contract PRNs to the Contracting Producer in accordance with the notification at Clause 5.3 within seven (7) calendar days and notify Us that the Contract PRNs have been Delivered.
 - 5.5. The Contracting Reprocessor warrants and represents to Us and to the Contracting Producer that:
 - 5.5.1. the Contract PRNs which it Delivers are valid, legally enforceable and have not been previously assigned for compliance;
 - 5.5.2. the Contracting Reprocessor complies with and the Contract PRNs have been produced in accordance with, and are compliant with, the Packaging Regulations.
 - 5.6. The Contracting Reprocessor shall, in accordance with the notification at Clause 5.3, issue a valid VAT invoice to Us for the amount notified.
 - 5.7. Provided always the Contract PRNs have been Delivered, We shall pay in full the invoice under Clause 5.6 within seven (7) calendar days of receipt of the invoice.

6. Failure to Deliver the Contract PRNs
 - 6.1. Subject to Clause 9, in the event that the Contracting Reprocessor fails to Deliver any Contract PRNs in accordance with Clause 5.4:
 - 6.1.1. We shall procure that alternative PRNs are purchased from another reprocessor and issued to Us or the Contracting Producer to replace the number of Contract PRNs that have not been Delivered;
 - 6.1.2. The Contracting Reprocessor shall pay to Us on demand within seven (7) calendar days:
 - 6.1.2.1. the difference between the alternative PRNs under Clause 6.1.1 and the Contract Market Price and,
 - 6.1.2.2. an amount equal to the Ecosurety Reprocessor Fee;
 - 6.1.3. The Contracting Reprocessor shall not be entitled to receive the Project Premium; and
 - 6.1.4. We shall refund to the Contracting Producer any Project Premium that has been paid to Us by the Contracting Producer and that has not been paid to the Contracting Reprocessor.

7. Project Activities
 - 7.1. We shall notify the Contracting Producer as soon as reasonably practicable if the Project Funding Minimum is met.
 - 7.2. Subject to Clause 7.3, We shall notify the Contracting Reprocessor as soon as reasonably practicable if the Project Funding Minimum is met and notify the Contracting Reprocessor of the amount to be stated in the invoice from the Contracting Reprocessor to us consisting of the Project Premium.

- 7.3. Where the Project Funding Minimum is met as a result of entering into this Recycling Contract, We shall combine the notification under Clause 7.2 with the notification at Clause 5.3.
 - 7.4. The Contracting Reprocessor shall, in accordance with the notification at Clause 7.2, issue a valid VAT invoice to Us for the amount notified. The Contracting Reprocessor shall issue a separate invoice for the Project Premium notwithstanding that We have issued a combined notification under Clause 7.3.
 - 7.5. Provided always that We have received full payment of the invoice at Clause 5.1 from the Contracting Producer, We shall pay in full the invoice under Clause 7.4 within seven (7) calendar days of receipt of the invoice.
 - 7.6. The Contracting Reprocessor shall carry out the Project Activities and issue the Project Report to the Contracting Producer and to Us by the Project Completion Deadline.
8. Failure to carry out Project Activities or issue Project Report
 - 8.1. In the event that the Contracting Reprocessor does not carry out the Project Activities or issue the Project Report in accordance with Clause 7.6, the Contracting Reprocessor shall pay to the Contracting Producer on demand the amount of the Project Premium paid by the Contracting Producer.
 - 8.2. Subject to Clause 15.4, We shall have no obligation and no liability to the Contracting Producer in relation to the carrying out of the Project Activities or the issuing of the Project Report.
9. Failure to Deliver Contract PRNs as a result of an Insolvency Event
 - 9.1. In the event that the Contracting Reprocessor does not Deliver Contract PRNs as a result of an Insolvency Event, We shall refund the Contracting Producer the Project Market Price and Project Premium.
 - 9.2. The Contracting Producer shall be responsible for sourcing alternative PRNs.
10. Failure of the Contracting Producer to pay
 - 10.1. Subject to Clause 15.4, We shall have no obligation and no liability to the Contracting Reprocessor in relation to the failure of the Contracting Producer to pay an amounts due under this Recycling Contract and We shall have no obligation to pay any amounts to the Contracting Reprocessor or purchase the Contract PRNs where we have not received amounts from the Contracting Producer.
11. Disputed invoices and late payment
 - 11.1. If a Party has a genuine dispute in respect of any invoice it shall pay any undisputed amount when due and shall notify the Party which issued the invoice as soon as reasonably practicable to explain why the invoice is disputed. The Parties shall use all reasonable endeavours to resolve the dispute.
 - 11.2. If a Party fails to make any payment due under this contract by the due date, then the defaulting Party shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank's base rate from time to time.
12. Confidentiality
 - 12.1. All Parties undertake to keep confidential and not disclose to any other third party any "Confidential Information" (meaning all information which is identified as confidential or is clearly by its nature confidential including information relating to this Recycling Contract, data used or generated in the provision of the PRNs or either party's customers, products, operations, processes, plans or intentions, know-how, trade secrets and market opportunities), which has been or may be disclosed to it by or on behalf of another party in the course of the discussions leading up to or the entering into or performance of this Recycling Contract without the approval of the other relevant Party to this Recycling Contract except insofar as the Confidential Information:
 - 12.1.1. is required by a person employed or engaged in connection with the proper performance of this Recycling Contract; or
 - 12.1.2. is required to be disclosed by law or by regulation or pursuant to a final binding order or compulsory process of a regulatory body.

12.2. The obligations of confidentiality set out in Clause 12.1 above shall remain in force for a period of two (2) years from the date that the Recycling Contract is formed.

13. Termination

13.1. Any Party may terminate this Recycling Contract immediately by giving written notice in the event of another Party becoming subject to an Insolvency Event.

14. Indemnity

14.1. Subject to Clause 15.1, the Reprocessor shall indemnify each of Us for all actions, suits, demands, loss (including but not limited to any direct, indirect or consequential loss), liabilities, damage, costs, claims or expenses (including but not limited to any costs incurred whether by court proceedings or by a bona fide out-of-court settlement) suffered by Us as a result of or in connection with any breach of any obligation, representation, warranty or condition expressed in this Recycling Contract or implied.

14.2. Subject to Clause 15.1, the Reprocessor shall indemnify the Producer for all actions, suits, demands, loss (including but not limited to any direct, indirect or consequential loss), liabilities, damage, costs, claims or expenses (including but not limited to any costs incurred whether by court proceedings or by a bona fide out-of-court settlement) suffered by Us as a result of or in connection with any breach of any obligation, representation, warranty or condition expressed in this Recycling Contract or implied.

15. Limits of Liability

15.1. Subject to Clause 15.4, the Contracting Reprocessor's liability for loss howsoever caused shall be limited to an amount equal to ten (10) times the Contract Market Price for the Contract PRNs.

15.2. Subject to Clause 15.4, the Contracting Producer's liability for loss howsoever caused shall be limited to an amount equal to ten (10) times the Contract Market Price for the Contract PRNs.

15.3. Subject to Clauses 8.2, 10.1 and 15.4, Our liability for loss howsoever caused shall be limited to an amount equal to ten (10) times the combined sum of the Ecosurety Producer Fee and the Ecosurety Reprocessor Fee. We shall not be liable for any loss of profit, sales, contracts or business opportunities, data, loss of or damage to goodwill, or any indirect or consequential loss incurred by any Party or a third party howsoever such loss is caused.

15.4. No Party excludes and nothing in this Recycling Contract shall limit liability for death or personal injury, fraud or fraudulent misrepresentation or any other matter or liability for which the Parties are not permitted by law to limit or exclude.

16. Miscellaneous

16.1. If any provision of this Recycling Contract shall be declared invalid, unenforceable or illegal it may be severed from this Recycling Contract.

16.2. Nothing in this Recycling Contract is intended to or shall operate to create any partnership, agency, employment, or joint venture of any kind between the Parties.

16.3. Save as expressly provided for in this Recycling Contract, a person who is not party to this Recycling Contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

16.4. No failure or delay by a Party in exercising any right under this Recycling Contract shall operate as a waiver of such right. Nor single or partial exercise shall preclude any further exercise.

16.5. This Recycling Contract shall be governed by and construed in accordance with English law and the Parties agree to submit to the exclusive jurisdiction of the English Courts.

Part F (Ecosurety Members)

The Clauses in this Part F (Ecosurety Members) set out the amendments to the Recycling Contract at Part E (Recycling Contract) that apply where a User is an Ecosurety Member at the point at which the Recycling Contract is formed.

MEMBER AMENDMENTS TO THE RECYCLING CONTRACT

1. Definitions
 - 1.1. Defined terms shall have the meanings given in the Recycling Contract.
2. Application
 - 2.1. Where the Contracting Producer is an Ecosurety Member at the point that the Recycling Contract is formed, the Member Amendments set out at Clauses 3 to 6 shall apply and shall be incorporated into the Recycling Contract.
3. Amendments to invoicing procedure and payment terms
 - 3.1. Clause 5.1 of the Recycling Contract is replaced by the following:

5.1. At the end of the quarter in which the Recycling Contract is formed, we shall add to the invoice that we issue to the Contracting Producer under the Membership Agreement:
 - 5.1.1. *the Contract Price;*
 - 5.1.2. *the Ecosurety Producer Fee; and*
 - 5.1.3. *any applicable VAT.*
 - 3.2. Clause 5.2 of the Recycling Contract is replaced by the following:

5.2. The Contracting Producer shall pay the invoice in full in accordance with the Membership Agreement.
 - 3.3. Clause 5.3 of the Recycling Contract is replaced by the following:

5.3. As soon as reasonably practicable after the Recycling Contract is formed, We shall notify the Contracting Reprocessor that the Contracting Reprocessor is required to Deliver the Contract PRNs to Ecosurety and the amount to be stated in the invoice from the Contracting Reprocessor to Us consisting of the Contract Market Price minus the Ecosurety Reprocessing Fee;
 - 3.4. Clause 5.4 of the Recycling Contract is replaced by the following:

5.4. The Contracting Reprocessor shall Deliver the Contract PRNs to Us in accordance with the notification at Clause 5.3 within seven (7) calendar days.
4. Amendments to obligations in the event of Contracting Reprocessor Insolvency
 - 4.1. Clause 9 of the Recycling Contract is replaced by the following:

9. Failure to Deliver Contract PRNs as a result of an Insolvency Event
 - 9.1. *In the event that the Contracting Reprocessor does not Deliver Contract PRNs as a result of an Insolvency Event, Ecosurety shall be responsible for sourcing alternative PRNs in accordance with the Membership Agreement.*
 - 9.2. *We shall not be entitled to charge the Contracting Producer, whether under the Recycling Contract or the Membership Agreement, for any additional amounts in respect of such alternative PRNs provided that We shall be entitled to retain the amounts payable by the Contracting Producer in respect of the Project Market Price and Project Premium.*
5. Amendments to disputed invoices and late payment
 - 5.1. Clause 11 of the Recycling Contract is replaced by the following:

11. Disputed invoices and late payment
 - 11.1. *Subject to Clause 11.3, if a Party has a genuine dispute in respect of any invoice it shall pay any undisputed amount when due and shall notify the Party which issued the invoice as soon as reasonably practicable to explain why the invoice is disputed. The Parties shall use all reasonable endeavours to resolve the dispute.*

11.2. *Subject to Clause 11.3, if a Party fails to make any payment due under this contract by the due date, then the defaulting Party shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank's base rate from time to time.*

11.3 *Where an invoice is issued by Us to the Contracting Producer, the provisions of the Membership Agreement regarding disputed invoices, interest of late payments and remedies shall apply.*

6. Amendments to Limits of Liability

6.1. Clause 15.3 of the Recycling Contract is replaced by the following:

15.3. *Subject to Clauses 8.2, 10.1 and 15.4, Our entire liability under the Membership Agreement and this Recycling Contract for loss howsoever caused shall be limited to the amount set out in the Membership Agreement. We shall not be liable for any loss of profit, sales, contracts or business opportunities, data, loss of or damage to goodwill, or any indirect or consequential loss incurred by any Party or a third party howsoever such loss is caused.*