

LICENCE AGREEMENT TERMS AND CONDITIONS FOR CERTIFICATION AGAINST THE CLIMATE ACTIVE CARBON NEUTRAL STANDARD AND USE OF THE CERTIFICATION TRADE MARK

1. Background

We, the Department, administer Certification against the Climate Active Carbon Neutral Standard and license the CTM to Responsible Entities.

You, a Responsible Entity, seek Certification and a licence to use the CTM.

Once accepted by you, these Licence Terms and Conditions are a legally binding agreement.

2. About this Licence Agreement

- a. This Licence Agreement records the entire agreement between you and us in connection with maintaining Certification and use of the CTM and supersedes all previous negotiations, understandings, representations and agreements, in relation to this.
- b. Capitalised terms in this Licence Agreement have the meaning given to them in the Glossary, and this Licence Agreement is interpreted in accordance with paragraph 2 of the Glossary.

3. Changes to this Licence Agreement

You agree that:

- a. we may change the terms of this Licence Agreement at any time;
- b. if we give you Notice of any change, you must comply with the updated version (at your own cost) from the next Reporting Period (or the following Reporting Period if the next Reporting Period begins less than 30 days after we Notify you of the change);
- c. if you do not agree to the changes, you (as your sole remedy) should cease to use the CTM;
- d. if you access the CTM after you have been Notified of a change to this Licence Agreement, you will be taken to have agreed to that change in respect of all use of the CTM after that date; and
- e. this Licence Agreement cannot be changed orally or by conduct.

4. Priority of documents

The documents forming part of this Licence Agreement will be interpreted in the following order of priority to the extent of any inconsistency:

- a. the Standard; then
- b. these Terms and Conditions; then
- c. the User Guide; then
- d. the Fee Schedule; then
- e. the Validation Schedule; then
- f. the Reporting Schedule; then
- g. the Schedule of Certifications; then
- h. the Glossary; and then
- i. any other documents referred to or incorporated by reference into this Licence Agreement.

5. Commencement and Term

5.1 Licence Agreement

Subject to clause 17.5 or unless otherwise stated, this Licence Agreement:

- a. commences on the Effective Date; and
- b. ends on the Expiry Date unless extended or terminated earlier.

5.2 Certifications

Subject to your compliance with this Licence Agreement, each Certification is valid for the Certification Period, or if no period is specified in relation to a particular Certification, for the Term of this Licence Agreement.

5.3 Extension and Certification on updated terms

- a. If you are not in breach of this Licence Agreement, you may extend the Term of this Licence Agreement by agreeing to a new version of the Licence Agreement terms through the Portal.
- b. You will be required to agree to a new version of the Licence Agreement terms through the Portal to add or amend any Certifications or to extend the Term of this Licence Agreement prior to its expiry.

6. Additional Certifications

During the Term of this Licence Agreement you may seek Certification and use of the CTM in connection with additional Items by agreeing to an updated Schedule of Certifications, the Licence Terms and Conditions, Fee Schedule, Validation Schedule and Reporting Schedule current at that time.

7. Your obligations under the Standard

You must, at your own cost, comply with all requirements of the Standard in respect of all Certified Items for the duration of the relevant Certification Periods.

8. Your Reporting, audit and Notice obligations

8.1 Reporting

You must, at your own cost, comply with the obligations in the Reporting Schedule that apply to you and your Certifications.

8.2 Audit

- a. You must cooperate with any of our audits (including spot audits by an Auditor appointed by us) of your Certification or compliance with this Licence Agreement, including by providing documents and information required to be held under this Licence Agreement or as envisaged under the Standard or User Guide.
- b. The Auditor will be required to sign a confidentiality deed (unless the Auditor is employed under the *Public Service Act 1999* (Cth) or other Commonwealth statute) and while on your premises comply with your reasonable security requirements and work health and safety requirements.

8.3 Notification of changes

- a. You agree to Notify us as soon as reasonably possible and within 10 Business Days after any of the following events occurring:

- i. any significant changes relating to your Certifications that would affect compliance with this Licence Agreement, including your or an Affiliate Entity's ability to maintain compliance with the Standard and your ability to retain Certification during the Certification Period;
- ii. any change to your name or the nominated contact person (including contact details) under this Licence Agreement;
- iii. any change in the direct or indirect beneficial ownership or control in respect of you or an Affiliate Entity (including details of the new owner); or
- iv. you or an Affiliate Entity cease to have control of the Certified Item or any of the proprietary rights to the Certified Item is sold, transferred, discontinued or terminated.

9. CTM Licence

9.1 General Obligations relating to the CTM

You must:

- a. not take any steps which may affect our rights (including the registrability or the validity) in respect of the CTM or any directly related mark;
- b. not apply for or seek to register any mark which is substantially identical or deceptively similar to the CTM;
- c. Notify us immediately if you detect or reasonably suspect any infringement of the CTM, or non-compliance with the User Guide, by you or any other person;
- d. provide all reasonable assistance to us in respect of proceedings brought against any infringement of the CTM; and
- e. not sublicense, or purport to sublicense, the use of the CTM.

9.2 Rights, reputation and goodwill in respect of the CTM

You acknowledge and agree that:

- a. all rights, title and interest in the CTM and all directly related marks (whether or not the subject of a corresponding trade mark application or registration) vest in us;
- b. nothing in this Licence Agreement confers upon you any rights, title or interest in the CTM other than the rights expressly conferred by this Licence Agreement;
- c. all reputation and goodwill attaching to your use of the CTM will ensure exclusively for our benefit;
- d. except where expressly stated in this Licence Agreement or otherwise agreed in writing between the parties, any statutory or common law rights that may be granted to authorised users of the CTM are expressly excluded; and
- e. you must not bring an infringement action for any misuse of the CTM by any person.

9.3 Licence to use the CTM

- a. On and from the Effective Date and in consideration for payment of the Fees, we grant you a non-transferable, revocable, non-exclusive licence to use the CTM in Australia only in relation to the Certified Item provided that:
 - i. such use is strictly in accordance with this Licence Agreement and our written directions or approvals;

- ii. when using the CTM, you submit to us any draft materials containing the CTM for our review and approval each time you propose to use the CTM in a substantially new way prior to any publication or distribution of those materials; and
 - iii. if the Item fails to be Certified or ceases to be Certified, you immediately cease to use the CTM and any materials containing the CTM in connection with that Item.
- b. You must not use and must ensure that Affiliate Entities do not use the CTM in a manner that directly or indirectly misrepresents the nature of Certification of the Item or is inconsistent with the Standard.
- c. Your right to use the CTM under this Licence Agreement in connection with a Certified Item commences on the Effective Date and continues until the earlier of the end of the relevant Certification Period, expiry of this Licence Agreement or, in the case of termination of this Licence Agreement for any reason whatsoever, the date of that termination.

9.4 Compliance with the CTM User Guide

- a. You must only use the Variant of the CTM corresponding to the Certification of the Certified Item, unless you have a separate agreement with us to use Other Variants of the CTM in connection with any other Certifications under the Standard.
- b. For the purposes of the User Guide, by agreeing to these Licence Terms and Conditions we approve you as an **"Approved User"** (as defined in the User Guide) and these Licence Terms and Conditions constitute the **"Terms and Conditions for use of the Certification Trade Mark"** (as defined in the User Guide).

9.5 Use of the CTM by Affiliate Entities

- a. You may nominate entities affiliated with the Certified Item to use the CTM in connection with the Certified Item by giving us Notice through the Portal about the Nominated Affiliate Entity's intended use of the CTM.
- b. Within 20 Business Days after receiving a nomination, we will Notify you of the outcome of the nomination or that further time is necessary to consider the nomination.
- c. If we approve a nomination made under clause 9.5a, the Approved Affiliate Entity will be invited to enter an Affiliate Agreement with us to use the CTM.
- d. There are no fees payable for nominations under clause 9.5a. We will approve nominations at our absolute discretion and may withdraw our approval at any time, for any reason whatsoever.
- e. For the purposes of the User Guide, if we approve a Nominated Affiliate Entity, we have approved the Approved Affiliate Entity as an **"Approved User"** (as defined in the User Guide); and the conditions you are required to impose on Approved Affiliate Entities by this Licence Agreement (particularly clause 9.5f) and the Affiliate Agreement will together constitute the **"Terms and Conditions for use of the Certification Trade Mark"** (as defined in the User Guide) applicable to the Approved Affiliate Entity.
- f. You must ensure that all Approved Affiliate Entities:
 - i. use the CTM only in accordance with the User Guide; and
 - ii. do not use the CTM in any manner in which you are not permitted to use the CTM under this Licence Agreement.
- g. You acknowledge and agree that you retain all responsibility for the use of the CTM by Affiliate Entities (including under clause 13).

- h. If an Approved Affiliate Entity ceases to be your Affiliate Entity, then the Affiliate Agreement granting the licence to the Affiliate Entity is terminated with immediate effect upon the entity ceasing to be your Affiliate Entity and you must ensure that the Affiliate Entity complies with clauses 12.2b and 12.3 as if the Affiliate Entity were you and as if references to termination of this Licence Agreement in those clauses were read as references to termination of the Affiliate Agreement granting the licence to the Affiliate Entity.

9.6 Quality Control

If we request, you must submit your and the Affiliate Entities' samples of products, packaging, promotional and advertising material bearing the CTM for our examination within 20 Business Days after our written request in a manner and form reasonably specified by us.

9.7 Use of the TM

- a. On and from the Effective Date, we grant you a royalty-free, non-transferable, revocable, non-exclusive licence to use the TM in Australia only in relation to your membership of the Climate Active Network and in accordance with any guidelines published by us.
- b. You may only use the TM in the form of the Climate Active Network Member logo using the words "Network Member" immediately below the TM.
- c. We may suspend or terminate the licence granted under clause 9.7a at any time for any reason by Notifying you of the suspension or termination.
- d. You acknowledge and agree that a misuse of the TM will be a breach of this Licence Agreement and we may suspend or terminate your licence to use the CTM under clause 12.2a.i if you misuse the TM and clauses 12.2b, 12.3a, 12.3b and 12.3e will apply. References to "CTM" in those clauses are to be read as references to "TM".

10. Our Role

10.1 General obligations, rights and decision

You acknowledge that:

- a. we have the right to obtain from you copies of documentation that you, your subcontractors or Affiliate Entities hold, which relate to Certification, assessment, monitoring and independent audit of the Certified Item; and
- b. apart from your right to have our decision reviewed in accordance with the Standard, all our decisions in relation to the Item and Certification are final.

10.2 Confidential Information

- a. Subject to clause 10.2b, we will not disclose your Confidential Information to a third party without your prior written approval.
- b. We are entitled to disclose your Confidential Information:
 - i. to our Personnel for the purposes of this Licence Agreement;
 - ii. to our Minister or Parliamentary Secretary for the purposes of the administering Certification against the Standard or managing the Standard;
 - iii. to the Department or to another agency or body of the Commonwealth or to a State Government body to meet accountability requirements regarding a Commonwealth program;
 - iv. into Parliament or a Parliamentary Committee; or
 - v. where we are required or permitted by law to disclose the Confidential Information,

as long as we make the recipient aware of the confidential nature of the information.

11. Fees

You must pay all relevant Fees in accordance with the Fee Schedule.

12. Suspension and Termination

12.1 Suspension and Termination

Either party may suspend or terminate this Licence Agreement at any time by providing Notice no less than 30 Business Days' to that other party, without liability for any Loss incurred by the other party, including Consequential Loss.

12.2 Suspension or Termination for your default

- a. Without limiting any other right we hold, we may by Notice immediately suspend or terminate the Certification of an Item and/or suspend or terminate your right to use the CTM, if we consider, in our sole and absolute discretion, that:
 - i. you have failed to comply with this Licence Agreement; or
 - ii. the Item does not meet the Certification requirements under the Standard.
- b. If your licence to use the CTM granted by this Licence Agreement is suspended or terminated under this clause 12, you will not be entitled to compensation for any Loss, including loss of prospective profits.

12.3 Requirement to comply with suspension or termination Notice

Unless we have agreed in writing, you must immediately take all reasonable steps to comply with a suspension or termination Notice, including:

- a. discontinuing the use of the CTM in connection with the Item (to avoid doubt, products manufactured and packaged before this time do not need to be repackaged or recalled, but can continue to be sold until those existing packaged products have been exhausted);
- b. removing all references to the CTM in connection with the Item, in your premises, retail outlets, vehicles, stationery, invoices, labels and other material, and destroying any advertisements, catalogues, directories and other promotional material bearing the CTM where such references relate to the Item;
- c. ceasing to represent that you have any connection with us in connection with the Item, or that the Item is Certified;
- d. ensuring that all Approved Affiliate Entities comply with the requirements of clauses 12.3a, 12.3b and 12.3c; and
- e. complying with any of our reasonable directions in relation to your Certification or use of the CTM.

12.4 Register of non-compliance

In addition to our rights under this clause 12, we may record your non-compliance with this Licence Agreement (or an Approved Affiliate Entity's non-compliance with the terms of an Affiliate Agreement) at our discretion on a non-compliance register that we maintain which may be made publicly available.

13. Claims and injunctive relief

You:

- a. must immediately Notify us in writing of any Claim, demand or proceeding brought against you or your Approved Affiliate Entity, or in respect of which you or your Approved Affiliate Entity may become liable, arising out of the use of the CTM or any other matter relating to Certification of the Item or this Licence Agreement; and
- b. acknowledge that:
 - i. we may suffer commercial or other Loss if you use the CTM or allow other entities to use the CTM other than in accordance with this Licence Agreement;
 - ii. damages may be an inadequate remedy to protect our interests if you or any of your Personnel (including Affiliate Entities) breach the provisions of this Licence Agreement or use the CTM other than as we permit; and
 - iii. we are entitled to seek and obtain injunctive relief or any other remedy, in any court, against you or an Affiliate Entity for breach of this Licence Agreement.

14. Disclaimer

To the extent permitted by law, we disclaim all warranties and implied terms and neither you nor we are liable to each other for any Loss, including Consequential Loss, howsoever arising.

15. Publication

You provide us consent to publish for promotional purposes information relating to the Certification of the Item on government websites and in articles, media releases or papers.

16. Assignment and Novation

Except that you may nominate Affiliate Entities under clause 9.5a, you must not assign or otherwise transfer your rights or obligations under this Licence Agreement.

Note: The new entity must enter into a new Licence Agreement with us.

17. General provisions

17.1 Relationship of the parties

You must not misrepresent your relationship with us.

17.2 Safety, Health and Environment

- a. You must Notify us and any Personnel we engage of any real or potential safety, health and environment hazard to which our Personnel may be exposed as a result of assessing the Certified Item.
- b. You must provide a safe working environment that accords with all relevant legislation for any of our Personnel who perform work at your premises. Our Personnel must as a condition of entry comply with all work, health and safety requirements imposed on visitors to work sites.

17.3 Waiver

A failure or delay by a party to exercise any right or remedy it holds under this Licence Agreement or at law does not operate as a waiver of that right; and a single or partial exercise by a party of any right or remedy it holds under this Licence Agreement or at law does not prevent the party from exercising the right again or to the extent it has not fully exercised the right.

17.4 Notices

- a. A Notice must be in English and in writing and directed to the other party's contact person at the other party's address, unless varied by any Notice.
- b. A Notice sent by electronic communication is properly given and deemed to be received at the time that would be the time of receipt under the *Electronic Transactions Act 1999* (Cth).
- c. A message we send to your email address or by Notice published on the Portal is one way of giving you Notice electronically, but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

17.5 Survival of obligations

Clauses 8, 9, 10.2, 11, 13, 14, 15 and 17.5 and any clause necessary to implement these clauses survive the expiry or termination of this Licence Agreement.

17.6 Applicable law and jurisdiction


The laws of the Australian Capital Territory apply to this Licence Agreement. The parties submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

GLOSSARY AND INTERPRETATION

1. Definitions

In the Licence Agreement, capitalised terms have the following meanings unless otherwise stated.

Affiliate Entity	means both Nominated Affiliate Entities and Approved Affiliate Entities.
Affiliate Agreement	means an agreement between the Department and an Approved Affiliate Entity which grants the Affiliate Entity a licence to use the CTM. The agreement consists of the Affiliate Terms and Conditions, the Standard, the User Guide, this Glossary and any annexure, schedules or attachments to them.
Affiliate Agreement Start Date	means the date on which the Affiliate Agreement is accepted by the Approved Affiliate Entity.
Affiliate Terms and Conditions	means the document of that name which sets out the terms and conditions that govern the use of the CTM in connection with the relevant Certified Item by Approved Affiliate Entities.
Annual Report	means the public report specified in section 2.7 of the Standard, the Carbon Account specified in section 2.3 of the Standard, and proof of meeting Third Party Validation and Technical Assessment requirements.
Application	means the request for the Certification of an Item by a Responsible Entity and includes all the information, materials and reports that are required by the Standard for the assessment of such a request by the Department.
Approved Affiliate Entity	means an entity we have approved in writing for the purposes of the Licence Agreement under clause 9.5 of the Licence Terms and Conditions.
Auditor	means an independent third party that is eligible to provide auditing services under the Standard, but is not your Competitor.
Base Year	means a base year as defined in the Standard which is chosen by the Responsible Entity upon applying for Certification for an Item.
Base Year Recalculation	means a calculation of the Carbon Account for a particular year in a manner that allows it be used as a replacement Base Year in accordance with the Standard.
Base Year Report	means an Annual Report prepared for the Base Year.
Building	means a building for the purposes of the Standard as it applies to buildings.
Business Day	means, in relation to the doing of any action in a place, a weekday other than a public holiday in that place.
Calendar Year Reporting Cycle	means a Reporting Cycle that begins on 1 January and ends on 31 December each year.
Carbon Account	means the carbon account as defined in the Standard.
Certification	means certification in accordance with the Standard.
Certification Date	means the date specified in the Notice of Certification we issued to you in relation to the Item, or if no date is specified, the date on which we notified you that the Item was granted Certification.
Certification Period	means the period between the Certification Date and the Expiry Date but subject to any termination, revocation or suspension of Certification.

Certification Trade Mark or CTM	<p>means the Climate Active Carbon Neutral Certification Trade Mark, which is the subject of Australian Trade Mark 2042153 and International Registration 1624048 filed under the Madrid Protocol, as depicted below:</p> 
Certified	means, in relation to an Item, being the subject of a current Notice of Certification that has not been terminated, revoked or suspended.
Claim	means any claim, action or allegation which a party may make or bring against another party, or which a third party may bring against a party in respect of any fact, matter or thing under, arising out of, or in connection with the CTM, a Licence Agreement, or an Affiliate Agreement.
Climate Active Carbon Neutral Standard or Standard	<p>means the standard(s) for making carbon neutral claims, maintained by the Australian Government that sets rules for measuring, reducing, offsetting and reporting Emissions, as amended from time to time. The standard is available for the following Certification categories:</p> <ul style="list-style-type: none"> a. Organisations; b. Products and Services; c. Events; d. Precincts; and e. Buildings. <p>Further information on the Standard is available at www.climateactive.org.au</p>
Climate Active Network	means the network of all entities that hold at least one current Certification.
Climate Active Network Member	means a member of the Climate Active Network.
Competitor	means a major provider of comparable products or services to you, but does not include one of the big four accounting firms and their consulting arms.
Conditions of Use	means any conditions or restrictions on the use of the CTM imposed by clause 2 of the Affiliate Terms and Conditions.
Confidential Information	<p>means information that:</p> <ul style="list-style-type: none"> (a) is inherently confidential and not in the public domain; and (b) you Notify us is to be treated in confidence, <p>but does not include information which:</p> <ul style="list-style-type: none"> (c) we hold independently of you disclosing the information; (d) is or becomes public knowledge other than by breach of a Licence Agreement or Affiliate Agreement and any other confidentiality obligation; or (e) has been independently developed or acquired as established by written evidence.

Consequential Loss	means any liability of Claim suffered or incurred by any person, whether arising in contract, tort (including negligence), under statute or on any other basis in law for: (a) punitive or exemplary damages of any kind; (b) loss of profit; (c) loss of revenue; (d) loss of production; (e) loss of goodwill; or (f) loss of business opportunity.
Department or we or us or our	means the Commonwealth of Australia, represented by the Department of Industry, Science, Energy and Resources ABN 74 599 608 295, or its administrative successor.
Effective Date	means the date you accepted the Licence Terms and Conditions through the Portal or, if this Licence Agreement is executed on paper, the date of signature.
Emissions	means greenhouse gas emissions that are measured, reduced and/or offset in the context of the Standard.
Event	means an event for the purposes of the Standard as it applies to events.
Expiry Date	means the last day of the calendar or financial year corresponding the Responsible Entity's reporting basis which is at least two but no more than three years after the Effective Date (or the date on which the Licence Agreement is extended), unless agreed otherwise in writing between the Responsible Entity and us.
Fees	means the annual administration and licence fees the Responsible Entity must pay to us in relation to the Certification of the Item as set out in Fee Schedule available in the Portal and on our website at www.climateactive.org.au .
Fee Schedule	means the document of that name, as updated from time to time, which forms part of the Licence Agreement and is available in the Portal and on our website at www.climateactive.org.au .
Financial Year Reporting Cycle	means a Reporting Cycle that begins on 1 July and ends on 30 June of the following year.
Glossary	means this document, which sets out the defined terms and interpretation provisions applicable to Licence Agreements and Affiliate Agreements in connection with the CTM under the Standard.
Item	includes an Organisation, Product, Service, Event, Precinct, Building or other thing in which you seek Certification or which is Certified under the Standard.
Large Event	means an Event with: (a) more than 10,000 attendees; or

	(b) more than 5,000 attendees and an Event duration of greater than one day.
Licence Agreement	means the agreement between the Department and a Responsible Entity which grants the Responsible Entity a licence to use the CTM in connection with the relevant Certified Item. The agreement consists of the Licence Terms and Conditions, Standard, User Guide, Fee Schedule, Validation Schedule, Reporting Schedule, Schedule of Certifications, and this Glossary and any annexure, schedules or attachments to them.
Licence Terms and Conditions	means the document of that name which sets out the terms and conditions that govern the use of the CTM by Responsible Entities.
Loss	means any loss, cost, expense, damage, fine or liability (including reasonable legal costs and expenses on a solicitor and own client basis and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties), however it arises and whether it is present or future, fixed or unascertained, actual or contingent.
Nominated Affiliate Entity	means an entity nominated by a Responsible Entity under clause 9.5a of the Licence Terms and Conditions.
Notice	means a notice given under clause 17.4 of the Licence Terms and Conditions or clause 19.3 of the Affiliate Terms and Conditions (as applicable).
Notice of Certification	means the notice we issued to the Responsible Entity certifying that the Item is Certified against the Standard and specifying the Certification Period.
Organisation	means an organisation for the purposes of the Standard as it applies to an organisation.
Other Variant of the CTM	means variants of the CTM other than the variants corresponding to the relevant Responsible Entity's Certified Items.
Permitted Use	means the permitted uses of the CTM specified in clause 2 of the Affiliate Terms and Conditions.
Permitted Time	means the time or times during which use of the CTM is permitted as specified in clause 2 of the Affiliate Terms and Conditions.
Personnel	means our or your personnel (as the applicable in the context) and includes individuals who are officers, employees, agents, advisers, consultants, contractors and subcontractors and other personnel.
Portal	means the Climate Active Carbon Neutral Certification Portal hosted by us at www.climateactive.org.au and, if this Licence Agreement is executed on paper, includes any other method agreed by the parties for performing the actions this Licence Agreement anticipates will be performed by or through the hosted Portal.

Portfolio	means portfolio of Events for the purposes of the Standard as it applies to Events.
Post-event Report	means a post-event report as contemplated by section 3.2 of the Standard as it applies to Events.
Pre-event Report	means a pre-event report as contemplated by section 3.1 of the Standard as it applies to Events.
Precinct	means a precinct for the purposes of the Standard as it applies to precincts.
Product	means a product for the purposes of the Standard as it applies to products.
Recurring Large Event	means a Large Event that occurs annually.
Recurring Small Event	means a Small Event that occurs annually.
Registered Consultant	means a Climate Active Carbon Neutral consultant registered by the Department and listed on our website at www.climateactive.org.au .
Reportable	means, in relation to a calendar or financial year, a year in which an Item was Certified for at least one day.
Reporting Cycle	means the annual cycle of reports that must be submitted to maintain Certification.
Reporting Period	means the annual reporting period set out in the base year Annual Carbon Account in accordance with the Standard.
Reporting Schedule	means the document of that name, as updated from time to time, which forms part of the Licence Agreement and is available in the Portal and on our website at www.climateactive.org.au .
Responsible Entity	means the legal entity that has sought a Notice of Certification in relation to an Item against the Standard and which is agreeing to or has agreed to the Licence Terms and Conditions and is entering or has entered the Licence Agreement and all person(s) duly authorised to act on the legal entity's behalf.
Schedule of Certifications	means the document or webpage of that name, as updated from time to time, which lists all of the Responsible Entity's current Certifications, and forms part of the Licence Agreement.
Service	means a service for the purposes of the Standard as it applies to services.
Small Event	means an Event with: (a) less than 5,000 attendees; or (b) less than 10,000 attendees and an Event duration of one day or less.
Small Organisation	means Small Organisation as defined by Table 3 in the Validation Schedule
Technical Assessment	means a technical assessment for the purposes of the Standard as

	specified in guidance to the Standards available at www.climateactive.org.au .
Term	means the term of the Licence Agreement in accordance with clause 5 of the Licence Terms and Conditions or the term of the Affiliate Agreement in accordance with clause 6 of the Affiliate Terms and Conditions (as applicable).
Third Party Validation	means validation by third parties for the purposes of the Standard as specified in the guidance to the Standards available at www.climateactive.org.au .
Trade Mark or TM	means the Climate Active Trade Mark registration No. 2042136.
User Guide	means the User Guide for the Climate Active Carbon Neutral Certification Trade Mark available in the Portal and published on our website at www.climateactive.org.au , as updated from time to time, which sets out the rules that govern how and when the Certification Trade Mark can be used. See also IP Australia's website, as updated from time to time. The User Guide forms part of the Licence Agreement and supersedes the "Rules for the Use of the National Carbon Offset Standard Certification Trade Mark" dated 24 October 2011 (which remains available on the IP Australia website).
Validation	Means the validation and verification of assertions about greenhouse gas Emissions made by the Responsible Entity and includes Technical Assessments and Third Party Validations. The Validation requirements for initial Certification and maintaining Certification of a Certified Organisation, Product, Service or Precinct are set out in the Validation Schedule.
Validation Schedule	means the document of that name, as updated from time to time, which forms part of the Licence Agreement and is available in the Portal and on our website at www.climateactive.org.au .
Variant of the CTM	means the Climate Active Carbon Neutral Certification Trade Mark registration No. 2042153 or any variants of the trade mark (as defined in the User Guide).
you or your	means the Responsible Entity, the Affiliate Entity or both as the context requires.

2. Interpretation

- a. In the Licence Agreement or Affiliate Entity Agreement (as applicable), unless the contrary intention appears:
 - i. any reference to the "**Department**", "**we**", "**our**" or "**us**" includes a reference to any person authorised by us;
 - ii. words in the singular include the plural and words in the plural include the singular;
 - iii. clause headings are for convenient reference only and have no effect in limiting or extending the language of provisions to which they refer;
 - iv. words importing a person includes a natural person, partnership, corporation, body corporate, association, governmental or local authority, or agency or other entity;

- v. a reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision;
 - vi. if any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning; and
 - vii. a reference to writing is a reference to any representation of words, figures or symbols, whether or not in a visible form.
- b. Any reading down or severance of a particular provision does not affect the other provisions of the Licence Agreement or Affiliate Entity Agreement (as applicable).

SAMPLE

FEE SCHEDULE - Climate Active Carbon Neutral Standard

Part A: Annual Fees for Organisations, Products, Services and Precincts

This part A applies to Organisation, Product, Service and Precinct Certifications.

Annual Fees (GST inclusive)

Single Certification

If a Responsible Entity has one Certification, the annual Fee that must be paid by the Responsible Entity, within 30 days after receipt of a valid invoice, to maintain Certification is calculated as follows.

Annual Emissions Within the Certification Emission Boundary	Fee (GST Inclusive) as at 1 July 2021
$\leq 2,000\text{t CO}_2\text{-e}$	\$840 if a Small Organisation or \$2,692 otherwise
$2,000 \leq 10,000\text{t CO}_2\text{-e}$	\$8,184
$10,000 \leq 80,000\text{t CO}_2\text{-e}$	\$13,569
$> 80,000\text{t CO}_2\text{-e}$	\$19,384

The Fees increase by 2.5% on 1 July each year, unless different Fees are published by the Department in an updated Licence Agreement made available in the Portal and on our [website](#).

Multiple Certifications

If a Responsible Entity has more than one Certification, the annual Fee that must be paid by the Responsible Entity, within 30 days after receipt of a valid invoice, to maintain its Certifications is calculated as follows:

- The Responsible Entity must pay 100% of the Fee (annually adjusted) payable for its Certification with the largest Emissions.
- The Responsible Entity must also pay 25% of the Fee (annually adjusted) payable for its Certifications with the second, third, fourth and fifth largest Emissions (if such Certifications exist).
- No Fees are payable for any Certifications above a total of five for a single Responsible Entity.

Note: If Certified Items are controlled by related bodies corporate, the bodies corporate may apply to the Department for an assessment of the relevant Emissions boundaries. The Department may, in its absolute discretion, allow a consolidation of Certifications with one Responsible Entity (and nominations of related bodies corporate as Affiliate Entities) to enable the bodies corporate to benefit from the multiple Certification annual Fee calculation.

Registered Charities

The Fees payable by organisations listed on the Australian Charities and Not-for-profits Commission charity register are discounted by 20%.

Part B: One-time Fees for Events

This part B applies to Event Certifications.

One-time Fees (GST inclusive)

Single Certification

If a Responsible Entity applies for one Event Certification, the one-time Fee that must be paid by the Responsible Entity, within 30 days after receipt of a valid invoice and prior to the Event date and prior to any use of the CTM in connection with the Event (whichever is earliest), is calculated as follows.

Event	Fee (GST Inclusive) as at 1 July 2021
Small Event	\$840
Large Event	\$1,576

The Fees increase by 2.5% on 1 July each year, unless different Fees are published by the Department in an updated Licence Agreement made available in the Portal and on our [website](#).

Portfolio Certifications

If a Responsible Entity applies for a Portfolio of Events Certification, the one-time Fee that must be paid by the Responsible Entity, within 30 days after receipt of a valid invoice and prior to the date of the earliest Event and prior to any use of the CTM in connection with the Portfolio of Events (whichever is earliest), is calculated as follows:

- The Responsible Entity must pay 100% of the Fee (annually adjusted) payable for one of the Events in the Portfolio (which must be a Large Event if there is one in the Portfolio).
- The Responsible Entity must also pay 50% of the Fee (annually adjusted) payable for every other Event in the Portfolio.

Registered Charities

The Fees payable by organisations listed on the Australian Charities and Not-for-profits Commission charity register are discounted by 20%.

Part C: Examples of Fee Calculations

This part C illustrates how the Fees are calculated (all figures are GST inclusive).

Example 1:

A business with annual Emissions of 3,000t CO₂-e for its existing Organisation Certification wishes to also Certify two Products. Product one has an additional 1,000t CO₂-e of Emissions not already included in its existing Organisation Certification. Product two has an additional 11,000t CO₂-e of Emissions.

Fee Calculation:

100% of Fee for Certification with largest Emissions (i.e. \$13,238 for Product two) + 25% of the Fees for the remaining two Certifications, i.e. (\$7,985 x 0.25 = \$1,996.25 for Organisation) + (\$2,627 x 0.25 = \$656.75 for Product one) = \$15,891.

Example 2:

The business in Example 1 wishes to certify a further two Products, a Service and an Event. Product three has additional Emissions of 500t CO₂-e, Product four an additional 3,000t CO₂-e, Service one an additional 50t CO₂-e and a Event with less than 5,000 attendees.

Fee Calculation:

For Non-Event Certifications, 100% of the Certification with largest Emissions i.e. \$13,238 for Product two + 25% of the Fees for the next four largest Non-Event Certifications i.e. (\$7,985 x 0.25 = \$1,996.25 for Organisation) + (\$7,985 x 0.25 = \$1,996.25 for Product four) + (\$2,627 x 0.25 = \$656.75 for Product one) + (\$2,627 x 0.25 = \$656.75 for Product three) = \$18,544.

For the Event Certification, the Event is a Small Event, so a Fee of \$820 is payable.

The total Fees payable are \$18,544 + \$820 = \$19,364.

Example 3:

The business in Example 2 is a charity listed on the Australian Charities and Not-for-profits register.

Fee Calculation:

The total Fees, as calculated in Example 2, are reduced by 20% i.e. \$19,364 x 0.80 = \$15,491.20

REPORTING SCHEDULE- Climate Active Carbon Neutral Standard

Part A: Reporting requirements for Organisations, Products, Services and Precincts

This part A applies to Organisation, Product, Service and Precinct Certifications.

Background

Responsible Entities must comply with the reporting requirements set out in this schedule for each of their Certifications to maintain the Certifications.

Upon applying for its first Certification, each Responsible Entity must select a Base Year and a corresponding Reporting Cycle in its Application. There are two possible Reporting Cycles:

- Calendar Year Reporting Cycle: 1 January – 31 December of each year; and
- Financial Year Reporting Cycle: 1 July – 30 June of each year.

Responsible Entities must continue reporting on the selected Reporting Cycle as long as they maintain any Certifications. To switch Reporting Cycles, a Responsible Entity would need to terminate all of its Certifications, apply for Certification again, and select the new Reporting Cycle.

Reporting Requirements on a Calendar Year Reporting Cycle

Responsible Entities reporting on a Calendar Year Reporting Cycle must provide the Reports specified in Table 1 to the Department by the dates specified in Table 1 by completing and submitting the appropriate form in the Portal to the Department's reasonable satisfaction to maintain their Certifications.

Table 1: Reporting on a Calendar Year Reporting Cycle

Report	Due Date
Base Year Report	10 days before the due date of the first Annual Report for the Item
Annual Report	30 April of the calendar year following a Reportable calendar year

Reporting Requirements on a Financial Year Reporting Cycle

Responsible Entities reporting on a Financial Year Reporting Cycle must provide the reports specified in Table 2 to the Department by the dates specified in Table 2 by completing and submitting the appropriate form in the Portal to the Department's reasonable satisfaction to maintain their Certifications.

Table 2: Reporting on a Financial Year Reporting Cycle

Report	Due Date
Base Year Report	10 days before the due date of the first Annual Report for the Item
Annual Report	31 October in the financial year following any Reportable financial year

Missed Due Dates are Breaches of the Licence Agreement

If a Base Year Report is not submitted to the Department by its due date, the Responsible Entity will need to select a later Base Year and submit a new Application to seek Certification.

If an Annual Report is not submitted to the Department by its due date or a requested amendment to an Annual Report is not submitted by its due date, and the Department has not granted the Responsible Entity an extension, the Responsible Entity will be in breach of the Licence Agreement.

If amendments to an Annual Report are requested, the Responsible entity will be given three weeks to submit the first amendment and two weeks to submit each of the second and third amendments. If an Annual Report (including any requested amendments) remains not to the Department's reasonable satisfaction after three amendments have been submitted, then the Responsible Entity will be in breach of the Licence Agreement.

If a Responsible Entity is in breach of the Licence Agreement, including by missing a report due date, the Department may suspend or terminate the Licence Agreement (including the Responsible Entity's and any Affiliate Entities' licences to use the CTM in relation to particular Items) under clause 12.2.a.i of the Licence Terms and Conditions.

SAMPLE

Part B: Reporting requirements for Events

This part B applies to Event Certifications.

Reporting Requirements for Events

Responsible Entities with, or seeking, Event Certifications must provide the reports specified in Table 3 to the Department by the dates specified in Table 3 by completing and submitting the appropriate form in the Portal to the Department's reasonable satisfaction to maintain, or not be prevented from receiving for this reason alone, their Event Certifications.

Table 3: Reporting Requirements for Events

Report	Due Date
Pre-event Report	28 days prior to the Event start date
Post-event Report	The later of: four 4 months after the Event start date; or, if the Responsible Entity holds an Organisation, Product, Service, or Precinct Certification which has an Annual Report due within six months after the Event start date, the date on which the Annual Report is due.

Missed Due Dates are Breaches of the Licence Agreement

If a Pre-event Report is not submitted to the Department by its due date, the Event will not be Certified.

If a Post-event Report is not submitted to the Department by its due date or a requested amendment to a Post-event Report is not submitted by its due date, and the Department has not granted the Responsible Entity an extension, the Responsible Entity will be in breach of the Licence Agreement.

If amendments to a Post-event Report are requested, the Responsible entity will be given three weeks to submit the first amendment and two weeks to submit each of the second and third amendments. If a Post-event Report (including any requested amendments) remains not to the Department's reasonable satisfaction after three amendments have been submitted, then the Responsible Entity will be in breach of the Licence Agreement.

If a Responsible Entity is in breach of the Licence Agreement, including by missing a report due date, the Department may suspend or terminate the Licence Agreement (including the Responsible Entity's and any Affiliate Entities' licences to use the CTM in relation to particular Items) under clause 12.2.a.i of the Licence Terms and Conditions.

VALIDATION SCHEDULE- Climate Active Carbon Neutral Standard

Part A: Validation requirements for Organisations, Products, Services and Precincts

This part A applies to Organisation, Product, Service and Precinct Certifications.

Background

Responsible Entities must comply with the Validation requirements set out in this schedule for each of their Certifications to maintain the Certifications.

Table 3 defines the Certification types to which different Validation requirements apply as set out in Tables 1 and 2.

Two categories of Validation may be required: Technical Assessments and Third Party Validations. The three types of Third Party Validation required in Table 1 are defined in Table 4.

Validation Requirements for Applications for Certification

Responsible Entities must provide to the Department the Validations specified in Table 1 with an initial Application for Certification.

Table 1: Validation Requirements for Initial Certifications

Certification Type	Technical Assessment	Third Party Validation
Small Organisation	Not required	Type 1
Medium Organisation	Required	Type 1
Large Organisation	Required	Type 2
Simple Service	Required	Type 1
Complex Service	Required	Type 3
Product	Required	Type 3
Precinct	Required	Type 2

Validation Requirements for Continuing Certification

Responsible Entities must provide to the Department the Validations specified in Table 2, at the times specified in the Reporting Schedule, to maintain their Certifications.

The requirement for Technical Assessments for Certifications depends on whether a Base Year Recalculation is required. Section 2.3.4 of the Climate Active Carbon Neutral Standard relevant to the Certification type specifies when Base Year Recalculations are required.

Table 2: Validation Requirements for Maintaining Certifications

Certification Type	Technical Assessment	Third Party Validation
Small Organisation	Not required	Type 1 required if Base Year Recalculation is required

Medium Organisation	Required every 3 years or whenever Base Year Recalculation is required	Type 1 required if Base Year Recalculation is required
Large Organisation	Required every 3 years or whenever Base Year Recalculation required	Type 2 required if Base Year Recalculation is required
Simple Service	Required every 3 years or whenever Base Year Recalculation required	Type 1 required if Base Year Recalculation is required
Complex Service	Required every 3 years or whenever Base Year Recalculation required	Type 3 required if Base Year Recalculation is required
Product	Required every 3 years or whenever Base Year Recalculation required	Type 3 required if Base Year Recalculation is required
Precinct	Required every 3 years or whenever Base Year Recalculation required	Type 2 required every 3 years until precinct Emissions are stable

Certification Types

Table 3: Certification Types

Certification Type	Criteria
Small Organisation	An Organisation Certification for an Organisation with: <ul style="list-style-type: none"> • carbon footprint < 1,000t CO₂-e; • annual turnover < \$10M; • consolidated gross assets < \$30M; • less than 30 employees (Full Time Equivalent); AND • has 80% or more of its total Emissions from the Small Organisation emissions boundary defined in the Portal
Medium Organisation	An Organisation Certification for an Organisation with: <ul style="list-style-type: none"> • carbon footprint between 1,000t and 25,000t CO₂-e; OR • carbon footprint < 1,000t CO₂-e; AND • annual turnover ≥ \$10M or consolidated gross assets ≥ \$30M or ≥ 30 employees (FTE) or less than 80% of its total Emissions from the Small Organisation emissions boundary defined in the Portal
Large Organisation	An Organisation Certification for an Organisation with: <ul style="list-style-type: none"> • carbon footprint ≥ 25,000t CO₂-e
Simple Service	A Service Certification for a Service that has 80% or more of its total Emissions from Emissions sources available in the Portal.
Complex Service	A Service Certification for a Service that has less than 80% of its total Emissions from Emissions sources available in the Portal
Product	A Product Certification
Precinct	A Precinct Certification

If an Item changes its Certification type (e.g. a company's consolidated gross assets increases above \$30M), then the initial Application Validation requirements for the Item's new Certification type in Table 1 apply for the year in which the change occurs.

Third Party Validation Types

Table 4: Third Party Validation Types

Third Party Validation Type	Methodology
Type 1 (Small and medium organisation and simple service verification)	Verification by <ul style="list-style-type: none">• A Registered Greenhouse and Energy Auditor (register available at www.cleanenergyregulator.gov.au/Infohub/Audits/register-of-auditors); or• A chartered accountant (directory available at www.charteredaccountantsanz.com/find-a-ca); or• A certified practicing accountant (directory available at www.cpaaustralia.com.au/FindACpa/Locate.mvc/Index); or• An environmental auditor accredited under international standard ISO 14001.
Type 2 (Assurance Audit)	Assurance audit by <ul style="list-style-type: none">• A Registered Greenhouse and Energy Auditor (register available at www.cleanenergyregulator.gov.au/Infohub/Audits/register-of-auditors); or• An auditor accredited to the international standard ISO 14065:2013.
Type 3 (Product/complex service verification)	Product or service verification by <ul style="list-style-type: none">• An ALCAS Certified Life Cycle Assessment (LCA) Practitioner (register available at www.alcas.asn.au/certified-practioners) who also meets Type 1 or Type 2 Validation requirements; or• An ALCAS Certified Life Cycle Assessment (LCA) Practitioner (register available at www.alcas.asn.au/certified-practioners) who is also an approved verifier under the EPD Australasia program (register available at www.epd-australasia.com/about-us/certified-verifiers); or• An auditor or accountant (meeting Type 1 or Type 2 Validation requirements) with in-depth knowledge of the LCA methodology who has:<ol style="list-style-type: none">1. access to AusLCI, ecoinvent or similar Life Cycle Inventory database; and2. relevant skills through one of the following<ul style="list-style-type: none">- Training in international standard ISO 14040/ISO14044 or ISO 14067- Degree in LCA at the undergraduate or graduate level; and3. relevant experience through one of the following<ul style="list-style-type: none">- Five independent third party LCA reviews according to ISO 14040/14044- Five years experience applying the LCA methodology, for example, through published LCAs or LCA consultancy work

The Responsible Entity must provide evidence that the third party meets the criteria specified in Table 4 if requested by the Department.

Technical Assessments

Technical Assessments must be undertaken by a Registered Consultant.

The detailed requirements for conducting a Technical Assessment and Third Party Validation will depend on factors that include: the Certification type; whether the Technical Assessment is for a new Application, an ongoing report or Base Year Recalculation; and on the entity preparing the Application or report. These rules are set out in detail in the guidance to the Standards and are available by contacting the Department or at www.climateactive.org.au

If a Registered Consultant has prepared an initial Application for Certification or annual report, a declaration by the Registered Consultant that the Application or annual report meets all of the Technical Assessment requirements specified in the guidance to the Standards satisfies the requirement for a Technical Assessment in Table 1 and Table 2.

Third Party Validation

The Third Party Validation must be undertaken by a party (individual or team) who meets the requirements in Table 4.

Role of Registered Consultants

Responsible Entities may engage a Registered Consultant to prepare their Application for Certification or annual report, but are not required to.

If a Registered Consultant has prepared an Application for Certification or an annual report, the Third Party Validation for that Application or annual report must not be performed by the same Registered Consultant. However, a Registered Consultant may complete the Technical Assessment for an Application or report they have prepared.

SAMPLE

Part B: Validation requirements for Events

This part B applies to Event Certifications.

Validation Requirements for Events

Responsible Entities must comply with the Validation requirements set out in Table 5 for each of their Events to maintain their Event Certifications.

Table 5: Validation Requirements for Events

	Pre-event Validation Requirements		Post-event Validation Requirements	
Event Type	Technical Assessment	Third Party Validation	Technical Assessment	Third Party Validation
Small Event	Not required	Not required	Not required	Not required
Recurring Small Event	Not required	Not required	Not required	Not required
Large Event	Required	Not required	Required	Type 1 required for Large Event or for the first Large Event in an Event Portfolio
Recurring Large Event	Every 3 years	Not required	Every 3 years	Not required

EXECUTION PAGE

I declare and warrant that:

- a) I am the individual that I assert to be;
- b) I am authorised to act on behalf of **Responsible Entity**, ABN **XX XX XX** in connection with **Responsible Entity**'s Climate Active Carbon Neutral application for Certification and use of the Climate Active Carbon Neutral Certification Trade Mark (if it is granted);
- c) all the information I have provided or will provide is true, complete and correct; and
- d) I understand that giving false or misleading information is a serious offence.

EXECUTED as an agreement

SIGNED for and on behalf of **Responsible Entity**
by its duly authorised representative

Name of authorised representative

Name of witness

Signature of authorised representative

Signature of witness

Date

Date