



## **Brand and Retailer Membership Agreement**

This agreement (“Agreement”) is made and entered into as of [date] (the “Effective Date”), by and between [Brand-Retailer], a company having a principal place of business at [location], and the U.S. Cotton Trust Protocol, LLC, a non-profit limited liability company having a principal office at 7193 Goodlett Farms Parkway, Cordova, Tennessee, 38016 (the “Protocol”).

Whereas, the Protocol operates a platform utilized by certain U.S. cotton producers who commit to meeting and demonstrating satisfaction of certain environmental sustainability objectives;

Whereas, Brand-Retailer sells textile and/or apparel products made from cotton and support the sustainable production of cotton in the United States;

Whereas, the Protocol and the Brand-Retailer desire to encourage participation in the Protocol’s program by those segments of the U.S. cotton industry involved in the processing and marketing of sustainable cotton, and thereby improve the conditions of U.S. cotton producers and enhance their well-being;

Now, therefore, the Protocol and Retailer agree as follows:

### **1. DEFINITIONS**

For purposes of this Agreement, the following terms shall have the meanings set forth below:

1.1 “Affiliate” shall mean (a) with respect to either Party, any entity which directly or indirectly controls, or is under common control with, or is controlled by such party and (b) with respect to the Protocol, the National Cotton Council of America, including its officers, directors, employees, agents, consultants, contractors, subcontractors, attorneys, and other professional advisors and personnel. As used in this definition, “control” (and its correlative meanings, “controlled by” and “under common control with”) shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through beneficial ownership of securities or other ownership interests, by contract or otherwise).

1.2 “Aggregated Data” means data relating to a group or category of Participating Cotton Producers that is combined, aggregated or otherwise merged in a way that (a) removes all individual identities of Participating Cotton Producers and all information that reveals information related to how, when and where a specific Participating Cotton Producer grows, produces or otherwise farms cotton and (b) is not linked, or reasonably linkable, to any specific Participating Cotton Producer.

1.3 “Aggregator” means an entity other than a Participating Cotton Producer that (a) sells or arranges for the sale of raw cotton and (b) has been granted access by a Participating Cotton Producer to that Participating Cotton Producer’s data for the purpose of selling or arranging the sale of raw cotton or cotton products that comply with the Protocol’s Sustainability Criteria.

1.4 “Applicable Law” means any United States federal, state or local, or any foreign, law, statute, ordinance, code, rule, regulation, resolution, permit, permit condition, order, decree, directive, technical or other standard, requirement, published guidance, or procedure enacted, adopted, promulgated, applied, issued, or followed by any Governmental Authority.

1.5 “Brand-Retailer” means a company that sells textile and/or apparel products made from Protocol-Verified Cotton and that wishes to claim Credits through this Agreement;

1.6 “Confidential Producer Information” means information that identifies or could be reasonably used to identify or is otherwise linked to, directly or indirectly, a particular Participating Cotton Producer, including but not limited to the personal information of the Participating Cotton Producer such as name, address, email address, proprietary business, financial information, or other data provided by the Participating Cotton Producer to enroll and maintain such enrollment in the Protocol’s Sustainability Program.

1.7 “Confidential Information Security Incident” means any act or omission to gain Unauthorized Access to or to penetrate, disrupt, misuse, or interfere with the Protocol’s website platform or information stored on it, where such act or omission compromises, or could reasonably be expected to compromise, the security, confidentiality or integrity of the Protocol’s website platform or information stored on it or that has a reasonable likelihood of materially harming any material part of the normal operations of either Party.

1.8 “Credit” is a defined unit equal to one kilogram of Protocol Equivalent Fiber that is available for marketing as Protocol-Verified Cotton.

1.9 “Designated Person” means a representative described in Section 9.12 of this Agreement.

1.10 “Governmental Authority” means any United States federal, state or local government or any foreign government, or any political subdivision thereof, any multinational organization or authority or any authority, agency or commission entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power, any court or tribunal (or any department, bureau or division thereof), or any arbitrator or arbitral body.

1.11 “Mass Credit Balance” means the net balance of Credits reflecting the volume of Protocol-Verified Cotton consumed by a Subscribing Entity.

1.12 “Mass Credit Balance System” means the system of accounting that reflects the total amount of Credits associated with the total volume of Protocol-Verified Cotton available for marketing through the Protocol’s website platform, including the individual Mass Credit Balance, if any, for each Subscribing Entity.

1.13 “Participating Cotton Producer” means a person or entity that (a) plants cotton for the purpose of harvesting and introducing raw cotton into the stream of commerce and (b) has enrolled in the Protocol for the purpose of validating that such person’s or entity’s cotton complies with the Protocol’s Sustainability Criteria.

1.14 “Party” means either the Brand-Retailer or the Protocol, as parties to this Agreement.

1.15 “Protocol Equivalent Fiber” means U.S. cotton that has been sold to or by a Brand-Retailer in transaction with another Subscribing Entity and that corresponds to the exchange of Credits worth an equal amount of Protocol- Verified Cotton.

1.16 “Protocol-Verified Cotton” means cotton that has been produced by a Participating Cotton Producers and that has been verified as satisfying the Protocol’s Sustainability Criteria.

1.17 “Representative” means an officer, director, employee, consultant, agent, contractor, subcontractor, attorney, or other professional advisor of either Party.

1.18 “Subscribing Entity” means an Aggregator or Brand-Retailer with whom the Protocol has a Subscription Contract.

1.19 “Subscription Fee” means the annual fee described in the Subscription Contract.

1.20 “Sustainability Criteria” means any or all of the requirements identified on the Protocol’s website platform and that a Participating Cotton Producer must satisfy in order to achieve certification by the Protocol.

1.21 “Sustainability Program” means the enterprise for which the Protocol was created.

1.22 “Unauthorized Access” means any access, use, acquisition, theft or disclosure of information or other data, or of information or other data by a person or entity not a Party to this Agreement, that is not expressly permitted by this Agreement, including but not limited to, any loss, corruption, or alteration thereof.

1.23 “User” means a Participating Cotton Producer, Aggregator, Brand-Retailer, Verifier, or a representative of any such entities, that has been granted access to the Protocol’s website platform, or to data stored thereon, for the purpose of entering, receiving, or verifying such data.

1.24 “Verifier” means an entity that has entered into a contract with the Protocol for the purpose of certifying a Producer’s compliance with the Protocol’s Sustainability Criteria.

## **2. MEMBERSHIP, USE OF LOGOS, ACCESS TO MASS CREDIT BALANCE DATA, PERMITTED USES, RESPONSIBILITIES, AND RESTRICTIONS**

### 2.1 Membership.

2.1.1 Membership Access. In consideration of payments described in Section 3, and subject to subsection 2.1.2, [Brand-Retailer] shall be considered a “Member” of the Protocol’s Sustainability Program and shall enjoy access to the Protocol’s website platform for the purposes described in this Agreement.

2.1.2 Definition of Membership. [Brand-Retailer] acknowledges that the terms “Member” and “Membership” as those terms are used or may be used in this Agreement and as a result of activities that result from this Agreement refer only to the [Brand-Retailer’s] right to participate in the activities expressly described in this Section 2 and do not confer on, or vest in, [Brand-Retailer] any rights or interests related to the ownership, assets, shares, revenues, management, governance, seat on the Protocol’s Board of Directors, or any other form of control or influence over the Protocol that are not expressly provided by this Agreement; further, that while this Agreement is in effect the Parties may publicly describe [Brand-Retailer] as a “Member” for the purposes of advertising its involvement in the activities described in this Agreement or otherwise promoting its involvement and support for the Protocol’s sustainability objectives.

2.2 Licensed Use of Logos. Each Party grants the other Party a non-exclusive, non-transferable, limited, royalty-free, worldwide license to display the Logo of the other Party in any advertising or promotional materials or on the displaying Party’s website or other online platforms for the purpose of publicizing their involvement in and support for the activities described in this Agreement; provided, each Party shall provide the other Party an opportunity to review the proposed placement and presentation of the other Party’s Logo prior to displaying that Logo. Nothing in this Agreement shall be construed as permitting the use of either Party’s Logos by the other Party for any purpose or in any manner other than such Party’s involvement in the activities described this Agreement, unless the Parties agree in writing to such other use of the Party’s Logos. Nothing in this Agreement shall be construed as limiting the use by a Party of its own Logos for any purpose or in any manner, and each Party reserves all rights in its Logos except as expressly

licensed to the other Party in this Section.

## 2.3 Access to Mass Credit Balance Data.

2.3.1 Mass Credit Balance System. The Protocol shall maintain on its website platform and make available to [Brand-Retailer] a Mass Credit Balance System for the purpose of requesting and claiming Credits; provided, at no time may the total amount of Credits available for exchange exceed the total volume of Protocol-Verified Cotton that is available for marketing.

2.3.2 Disclaimer. Credits reflected on the Protocol website platform have no intrinsic monetary value severable from the Protocol Equivalent Fiber to which they correspond; further, Credits that are exchanged without correspondence to Protocol Equivalent Fiber are void; further, [Brand-Retailer] acknowledges the Protocol does not underwrite or otherwise guarantee the value or quality of Protocol-Verified Cotton that is represented by a Credit or of the Protocol Equivalent Fiber to which Credits correspond. It

2.3 Force Majeure. The Protocol shall not be deemed to be in violation of this Agreement, nor be liable to [Brand-Retailer], for failure to provide direct and continuous access to its website platform for any period, and to the extent, that such failure results from any event or circumstance beyond the Protocol's reasonable control or anticipation, including without limitation, severe weather, floods or other natural disasters, fire, riots, acts of war, civil disorder, court orders, disease or pandemic declared by a state or federal authority, curfews or travel restrictions imposed by local, state, or federal authorities, acts or regulations of governmental bodies imposed after the fact, labor disputes or failures or fluctuations in electrical power, heat, light, air conditioning or telecommunications equipment or lines, or other equipment failure, and which it could not have prevented by reasonable precautions or could not have remedied by the exercise of commercially reasonable efforts.

## 2.4 Permitted Uses. To

2.4.1 Marketing and Promotion. Subject to Section 5.1, [Brand-Retailer] may use information obtained through its access to the Protocol in the marketing, promotion, and/or sale of textile or apparel products made from Protocol-Verified Cotton. This

2.4.2 Aggregated Data. Protocol agrees to make available to [Brand-Retailer] Aggregated Data that is created or collected through the Sustainability Program, and which [Brand-Retailer] may share with other entities that are not a party ("Third Party") to this Agreement; provided, no Confidential Producer Information or information that could be used to identify an D shall be used by, or disclosed to, any Third Party without the express written consent of the affected Participating Cotton Producer.

2.5 Other Uses. Subject to Section 9.8 of this Agreement and any relevant Applicable Laws, the Parties may mutually agree in writing to modify this Agreement to permit uses other than those described in Section 2.

## 2.6 Responsibilities and Restrictions.

2.6.1 Security. Each Party will use industry-accepted standards and take all reasonable efforts to prevent the transmission or introduction of any viruses, worms, spyware, malware or other similarly destructive or malicious code into the other Party's website platform or API. Each Party will immediately respond to, and inform the other, of any known or suspected security breaches in accordance with the terms and conditions of this Agreement and any relevant Applicable Laws.

2.6.2 Protection of Systems. Subject to Section 5, [Brand-Retailer] will: (a) use appropriate safeguards and maintain adequate controls, security and protections for any server or system through which the Protocol's website platform is accessed and data transmitted from it is stored; and, (b) take other steps as may be necessary to prevent an Unauthorized Access or a Confidential Information Security Incident.

2.6.3 Regulatory Compliance. Each Party is solely responsible for its own compliance with all Applicable Laws for its operations.

2.6.4 Code of Conduct. Each Party acknowledges and affirms its adherence to the Protocol Code of Conduct, which shall be attached to this Agreement and which shall be deemed incorporated herein.

2.7 License in Data. The Protocol grants [Brand-Retailer] a non-exclusive, non-assignable, revocable and limited right and license to access the Protocol's website platform during the term of this Agreement to access and use Credit and/or Mass Credit Balance data pursuant to the terms of this Agreement and in accordance with the relevant Applicable Law.

2.8 Certain Representations and Warranties.

2.8.1 International Data Protection. Each Party represents and warrants that it is not collecting, processing, storing, using or disclosing confidential information of entities who would have rights under the European Union's General Data Protection Regulation or another data protection law outside of the United States.

2.8.2 Use of Platform. [Brand-Retailer] represents and warrants that it will only use and access the Protocol's website platform in accordance with the relevant Applicable Law, regulations and all general industry-accepted practices, including laws relating to the export, collection, processing, storage, protection, use and disclosure of data.

2.8.3 Consents. Each Party represents and warrants that it has implemented and obtained all necessary policies, notices and consents, including without limitation those required under the relevant Applicable Law, for collecting, processing, storing, using and disclosing confidential information in accordance with this Agreement.

### **3. SUBSCRIPTION FEE, PAYMENTS, AND TAXES**

3.1 Subscription Fee. [Brand-Retailer] agrees to pay to the Protocol the fee(s) described in the Subscription Contract, which shall be attached to this Agreement and which shall be deemed incorporated herein.

3.2 First Invoice. [Brand-Retailer] shall not be invoiced for Membership for the period from the Effective Date of this Agreement through June 30, 2021; further, for fees covering the period July 1, 2021 through June 30, 2022, Protocol shall submit the first invoice no earlier than July 1, 2021, unless [Brand-Retailer] provides written notice thirty (30) days in advance that it wishes to terminate this Agreement, in the event of which [Brand-Retailer] shall owe no fees to the Protocol.

3.3 Fees Owed by Other Entities. Each Party is solely entitled to and responsible for the collection of any fees, expenses, debts, or other monies that may be receivable from any other entity not a Party to this Agreement as a result of any activity that results from or is facilitated by this Agreement.

3.4 Financial Obligations. Nothing in this Agreement shall be construed to establish a financial obligation of a Party for the expenses, debts, or other obligations of the other Party to any other

entity that is not a Party to this Agreement.

3.5 Taxes. Each Party is solely responsible for any applicable federal, state, or local taxes that may be owed by it as a result of any activity that results from or is facilitated by this Agreement.

#### **4. TERMS AND TERMINATION**

4.1 Term of Agreement. This Agreement shall commence on the Effective Date and remain in effect for one (1) year, or as long as a Subscription Contract remains in effect, unless terminated as described in subsection 4.2. If the Agreement has not been terminated pursuant to subsection 4.2, the Agreement and Subscription Contract will automatically renew for a period of one (1) year, and shall renew for successive periods of one (1) year thereafter, unless either Party provides written notice that it does not wish to renew the Agreement and Subscription Contract at least thirty (30) days before the date of such renewal.

4.2 Termination. Subject to the terms of subsection 4.5, and except as provided in subsection 4.4, either Party may terminate this Agreement and the Subscription Contract (a) for cause by providing written notice to the Party if the other Party has failed to perform a material obligation and has not fully cured the failure within thirty (30) days after receiving written notice of such failure or (b) upon written notice to the other Party in the event the Parties have failed to resolve a dispute in accordance with Section 9.7.1.

4.3 Termination for Failure to Pay Fees. The Protocol may terminate this Agreement and Subscription Contract due to a failure by [Brand-Retailer] to pay fees owed by it to the Protocol that have been outstanding for more than six (6) months.

4.4 Termination for Violation of Code of Conduct. A violation by [Brand- Retailer] of the Code of Conduct shall be grounds for immediate termination of the Agreement; further, in the event of a termination under this subsection, no refund for Fees shall be due to [Brand-Retailer].

4.5 Responsibilities. Upon the termination or expiration of this Agreement and Subscription Contract for any reason, unless otherwise agreed by the Parties, each Party shall cease to claim [Brand-Retailer's] membership in the Protocol's Sustainability Program and to display the Logo of the other Party in any advertising or promotional materials or on its own website or other online platforms for the purpose of publicizing the [Brand-Retailer's] involvement in and support for the activities described in this Agreement; further, [Brand-Retailer] shall relinquish any Credits in its control to the Protocol.

4.6 Survival of Obligations. The obligations described in Section 5 will survive termination of this Agreement and Subscription Contract and will be binding upon the respective heirs, successors, and assigns of the Parties, except that such obligations may terminate pursuant to a judicial or governmental order described in Section 5.5.

#### **5. PROTECTION OF DATA**

5.1 Access to a Confidential Producer Information is Unauthorized. It is not the intent of the Protocol to permit access by [Brand-Retailer] to Confidential Producer Information and any such access is accidental and considered to be Unauthorized Access. In the event Confidential Producer Information has been disclosed, the [Brand-Retailer] shall notify the Protocol of such disclosure as soon as practicable after discovering such disclosure. No such Confidential Producer Information that has been disclosed to [Brand-Retailer] may be disclosed by [Brand-Retailer] to any other entity and shall be destroyed as soon as practicable upon its discovery.

5.2 Report and Corrective Action. Each Party will immediately notify and report to the other Party

any Unauthorized Access or Confidential Information Security Incident as soon as it has reason to suspect or believe that such Unauthorized Access or Confidential Information Security Incident has occurred. The Party that experienced the Unauthorized Access or Confidential Information Security Incident must (a) reasonably assist in any action taken against the person(s) or entity (or entities, as applicable) responsible for such activity to the extent possible, (b) take immediate corrective action to cease the activity and prevent any other future such activity, and (c) otherwise cooperate with the other Party and coordinate with security personnel of the Party experiencing such Unauthorized Access or Confidential Information Security Incident in connection with the investigation and remediation of such events. Notwithstanding anything to the contrary herein, the Party on whose website platform or other system the Unauthorized Access or Confidential Information Security Incident occurred shall reimburse the other Party for actual costs incurred in responding to, and mitigating damages caused by, such Unauthorized Access or Confidential Information Security Incident.

5.3 Cooperation and Mitigation. In the event of an Unauthorized Access to information by [Brand-Retailer] or its Representatives, [Brand-Retailer] shall cooperate with any remediation the Protocol, in its discretion, determines is necessary to address any applicable reporting obligations that it may owe to the entity whose information has been accessed, including any obligations that may arise under any Applicable Law with respect to data breaches, and shall mitigate any effects of such Unauthorized Access, including reasonable measures necessary to restore goodwill with Aggregators, Participating Cotton Producers and the reputation of the Protocol with the public.

5.4 Information Otherwise Available. A Party will not be obligated under this Agreement with respect to a specific portion of information obtained as a result of this Agreement and the disclosure of which is not expressly permitted by this Agreement if that Party can demonstrate with competent evidence that such information: (1) was in the public domain at the time it was disclosed to the Party; (2) entered the public domain subsequent to the time it was disclosed to the Party, through no fault or breach of this Agreement by either Party; (3) was rightfully in the receiving Party's possession free of any obligation of confidence under this Agreement at the time it was disclosed as a result of this Agreement; or, (4) was rightfully communicated to the receiving Party free of any obligation of confidence subsequent to the time it was disclosed as a result of this Agreement.

5.5 Disclosure Required by Law. Notwithstanding anything in this Agreement to the contrary, a Party may disclose any information obtained as a result of this Agreement, and that is not otherwise expressly permitted by this Agreement, to the extent such disclosure is required by a valid order of a court or other Governmental Authority having jurisdiction over the matter, provided that such Party provides the other Party with reasonable prior written notice of such disclosure and makes a reasonable effort to obtain, or to assist in obtaining, a protective order preventing or limiting the disclosure and/or requiring that the information so disclosed be used only for the purposes for which the law or regulation required, or for which the order was issued.

## **6. OWNERSHIP**

Except as expressly described in Section 2, nothing in this Agreement shall be construed as granting any property right, by license or otherwise, to any intellectual property that has issued or may be issued to the other Party or to any of its Representatives.

## **7. INDEMNIFICATION AND LIMITATIONS OF LIABILITY**

7.1 Indemnification. Except as expressly provided otherwise, each Party shall indemnify, defend and hold harmless the other Party and its Affiliates and their respective officers, directors, managers,

employees, agents and contractors from and against all or any costs (including reasonable attorney's fees), fees, claims, demands, suits, proceedings, actions, expenses, loss or damage arising out of or associated with the indemnifying Party's breach of this Agreement, violations of Applicable Law and breaches to a Party's website platform or system that causes Confidential Information to be lost, stolen, accessed, used or otherwise handled in an unauthorized manner.

7.2 Direct and Indirect Liability. NEITHER PARTY WILL BE LIABLE TO THE OTHER, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, PRODUCT LIABILITY OR STRICT LIABILITY), OR OTHERWISE FOR ANY DIRECT OR INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT NECESSARILY LIMITED TO, LOSS OF PROFIT, REVENUE OR USE) ARISING OUT OF SUCH PARTY'S PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT OR BREACH OR DEFAULT UNDER THIS AGREEMENT, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7.3 Exclusions to Limitations of Liability. The limitations of liability set forth in Section 7.2 do not apply to claims of indemnity, breach of confidentiality obligations, breach of data security obligations, claims arising from an Unauthorized Access or a Confidential Information Security Incident, or other matters for which liability cannot be excluded or limited under Applicable Law.

7.4 State Prohibition of Limitation of Liability and Disclaimer of Implied Warranties. Some states do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages, which means that some of the above limitations may not apply. IN THESE STATES, EACH PARTY'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

## **8. WARRANTIES AND DISCLAIMERS**

8.1 EXCEPT FOR THE EXPRESS PROMISES SET FORTH IN THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, AND MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, INCLUDING BUT NOT LIMITED TO WITH RESPECT TO THE OPERATION, CAPACITY, SPEED, FUNCTIONALITY, SOFTWARE, HARDWARE OR OTHER MATERIALS UTILIZED THROUGH ITS WEBSITE PLATFORM, OR OTHER RESULTS TO BE DERIVED FROM THE USE OF ITS WEBSITE PLATFORM, OR FROM THE PERFORMANCE OF ANY OBLIGATION PROVIDED UNDER THIS AGREEMENT, OR THAT THE OPERATION, CAPACITY, SPEED, FUNCTIONALITY, QUALIFICATIONS OR CAPABILITIES OF ANY SUCH SERVICE, SOFTWARE, HARDWARE SYSTEM OR OTHER MATERIALS WILL BE UNINTERRUPTED OR ERROR-FREE.

8.2 ALL DATA AND ANY OTHER INFORMATION TRANSFERRED AND ANY SERVICES PROVIDED BETWEEN THE PARTIES AS A RESULT OF THIS AGREEMENT IS PROVIDED "AS IS." NEITHER PARTY IS RESPONSIBLE FOR THE ACCURACY OF INFORMATION PROVIDED BY ANY USER.

## **9. GENERAL**

9.1 Non-Exclusivity. [Brand-Retailer] acknowledges the Protocol's right to consider similar agreements with other entities for the same or similar purposes, on terms and conditions that may be similar to the terms and conditions of this Agreement, and agrees that nothing in this Agreement shall prevent the Protocol from reaching such agreement with another entity and the Protocol shall not be deemed to have breached its confidentiality obligations hereunder by negotiating or entering into such agreements with another entity, even if such agreements contain terms and conditions similar to the terms and conditions of this Agreement.

9.2 Non-Disparagement. Each Party agrees that neither it nor its Representatives shall make

statements or representations, or otherwise communicate, directly or indirectly, in writing, orally, or otherwise, or take any action which may, directly or indirectly, disparage the other Party or its Representatives, Affiliates, Aggregators, Participating Cotton Producers or their reputations; provided, nothing in this Agreement shall preclude a Party or its Representatives from making truthful statements that are required by Applicable Law, regulation or legal process.

9.3 Third Parties. This Agreement shall be for the benefit of the Parties and none of the provisions of this Agreement shall be for the benefit of or enforceable by any third party. Each Party warrants and represents that this Agreement is not inconsistent with any contractual obligations, expressed or implied, undertaken with any third party.

9.4 Assignment. This Agreement shall be binding upon and inure to the benefit of the successors or permitted assigns of each Party, and neither Party may assign this Agreement or any of its rights, interests or obligations hereunder without the prior written consent of the other, which consent will not be unreasonably withheld or delayed. Any purported assignment by a Party without the other Party's consent will be null and void. No assignment shall relieve a Party of responsibility for the performance of its obligations provided in this Agreement.

9.5 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee, exclusive of choice-of-law rules, except that the Federal Arbitration Act shall apply concerning arbitration.

9.6 Relationship of Parties. Nothing in this Agreement creates or shall be deemed to create any agency, partnership, employment, or joint venture relationship between the Parties. Nothing in this Agreement is intended to obligate a Party to enter into any further agreement with, or to license any other products or services to, the other Party. Neither Party is required by this Agreement to disclose any particular information to the other Party not otherwise expressly described or otherwise necessary for the purposes expressly described herein.

9.7 Dispute Resolution.

9.7.1 Negotiation. Subject to Sections 9.7.2 and 9.7.3, in the event of any dispute, the Parties agree to negotiate in good faith to resolve the dispute; provided, that if no such resolution is reached within thirty (30) days of such negotiation, either Party may terminate the Agreement as provided in Section 4.

9.7.2 Equitable Remedies. The Parties acknowledge that a breach of the obligations described in Section 2 and Section 5 of this Agreement will cause irreparable damage to the Protocol and any affected Aggregator and/or Participating Cotton Producer for which recovery of damages would be inadequate, and that, in the event of breach or threatened breach, either or both the Protocol and an affected Aggregator and/or Participating Cotton Producer will be entitled to seek timely injunctive relief under this Agreement, which may include suspension of this Agreement, as well as such further relief as may be granted by a court of competent jurisdiction; provided, the Protocol agrees not to suspend the Agreement without providing an opportunity to [the Brand-Retailer] to remediate such breach. Any relief granted under this Section 9.7.2 shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

9.7.3 Suspension. For purposes of this subsection, the term "suspension" means a temporary cessation of this Agreement, pending negotiations described in Section 9.7.

9.8 Modifications. This Agreement may not be modified, amended, superseded or waived except in

writing that is signed by both Parties and that specifically references this Agreement by name and date, and any attempt to take such action that does not comply with this subsection is void.

9.9 Interpretation.

9.9.1 Headings. The headings in this Agreement are used for the sake of convenience and do not limit the content of the provisions that follow such headings.

9.9.2 Numbers. Unless the context requires otherwise, words importing the singular number include the plural and vice versa.

9.10 Entire Agreement. This Agreement together with the Subscription Contract that is incorporated herein sets forth the entire agreement between the Parties regarding the subject matter hereof and supersedes any prior agreements, discussions, or understandings between the parties with respect to such matters. Each Party acknowledges that it is entering into this Agreement without relying on any promise by the other Party that is not expressly set forth in this Agreement.

9.11 Severability and Waiver. If any provision of this Agreement, or the application of such provision, is invalid or unenforceable under any Applicable Law, the remaining provisions of this Agreement shall remain in full force and effect. In the event any provision is deemed invalid or unenforceable, such provision may be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of Applicable Law or applicable court decisions. A waiver is only effective if it is in writing and signed by the Party granting it. A waiver of rights under any provision of this Agreement on one occasion will not be deemed a waiver of that on any other occasion.

9.12 Designated Persons. Each Party shall designate a representative who shall: (a) be available to the other Party during normal business hours via telephone and/or email; and, (b) respond to inquiries from the other Party within two (2) business days from the time of such inquiry. Each Party may change its Designated Person by written notification to the other Party of such change.

**SIGNATORIES**

**IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.**

**BRAND/RETAILER**

**U.S. COTTON TRUST PROTOCOL, LLC**

**By:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**To submit this form, please email a signed copy to: [info@trustuscotton.org](mailto:info@trustuscotton.org) or mail to:  
7193 Goodlett Farms Parkway, Cordova, TN 38016**