

# RAINFOREST ALLIANCE CERTIFICATION PLATFORM (“RACP”) TERMS AND CONDITIONS (December 2023 Version)

## 1. Introduction

1.1. Rainforest Alliance, Inc., a New York not-for-profit corporation with headquarters located at 27 East 28th Street, 8th Floor, New York, NY 10016, U.S.A., (“RA”) is creating a more sustainable world by using social and market forces to protect nature and improve the lives of farmers and forest communities. RA develops and implements certification standards to promote sustainable agriculture.

1.2. These Terms and Conditions and the additional documents together comprising the Binding Documents (defined below) are binding on you in your use of the RA Online Platforms (defined below).

## 2. Definitions

2.1. “Binding Documents” shall mean the set of standards, policies and rules that are applicable to you in RA’s programs, depending on the type of activity you are engaged in, together with these Terms and Conditions. RA has set forth the applicable Binding Documents on its website at <https://www.rainforest-alliance.org/business/binding-documents> and may introduce new Binding Documents by providing notice to you pursuant to section 6.6 (Notices) herein. The Binding Documents may be updated from time to time in accordance with their terms or the terms set forth in these Terms and Conditions.

2.2. “Certification Binding Documents” shall include any Binding Document categorized as such on the Binding Documents web page, and generally includes certification standards, policies and rules.

2.3. “Certified Farm” shall mean a farm or group of farms certified as meeting the RA Standards.

2.4. “Certified Product(s)” shall mean those products or ingredients originating from a Certified Farm (in the case of the UTZ certification program, Certified Product refers to the certified crop) and passed through a Certified Supply Chain (regardless of whether such product is sold as certified or incorporated in a certification claim). Certified Product may also refer to product being sold as certified through the mass balance program set forth in the Binding Documents.

2.5. “Certified Supply Chain” shall mean a supply chain comprised of companies certified as meeting the RA Standards.

2.6. “License Terms and Conditions” shall mean the Rainforest Alliance License Agreement General Terms and Conditions, as set forth at <https://www.rainforest-alliance.org/resource-item/rainforest-alliance-license-agreement-general-terms-and-conditions/>.

2.7. “RA Marks” shall mean the RA name, UTZ name and all other trademarks, certification marks, logos or other proprietary designations owned by RA and its affiliates and set forth in the Trademarks Schedule.

2.8. “RA Online Platform” shall mean those information technology systems provided by RA and used by you to register, record transactions in Certified Products, submit trademark or claims approval requests, provide other information to RA, or receive data (or analyses of such data) from RA, including, without limitation, traceability systems, claims platforms, Marketplace 2.0, RACP, MultiTrace, GIP, PowerBI, and any other RA information technology system RA introduces.

2.9. “RA Standards” shall mean the sustainable agriculture standards developed or approved for use by RA, including, but not limited to, the UTZ Code of Conduct, the Union for Ethical BioTrade (UEBT) Standard and the UEBT/RA field check list, the 2017 Rainforest Alliance Sustainable Agriculture Standard, the UTZ and Rainforest Alliance Chain of Custody standards and the 2020 Sustainable Agriculture Standards (including the farm and supply chain requirements).

2.10. “Royalties” shall mean amounts payable to RA set forth in the Royalty Schedule for the use of the RA Marks or the right to sell Certified Product as certified.

2.11. “Royalty Schedule” shall mean the Rainforest Alliance Royalty and Fees Schedule attached to the Rainforest Alliance License Terms and Conditions.

2.12. "Supply Chain Actors" shall mean those parties in the agricultural supply chain who conduct activities or transactions involving Certified Product subsequent to the farming of such Certified Product, including buying, trading, manufacturing, processing and retailing. For the avoidance of doubt, an organization may be both a Certified Farm and a Supply Chain Actor.

2.13. "Supply Chain Data" shall mean data provided to RA under the applicable Certification Binding Documents within an organization's supply chain, together with analyses of such data.

2.14. "Terms and Conditions" shall mean these Rainforest Alliance Terms and Conditions.

### 3. Responsible Use of RA Online Platforms

3.1. You acknowledge that the RA Online Platforms serve the purpose of monitoring credibility by administering transactions in Certified Product or equivalent volumes.

3.2. You will refrain from any action that may jeopardize the credibility, the purpose or the functionality of the RA Online Platforms. Usernames and passwords are to be kept confidential and cannot be transferred to other users without the prior written consent of RA. You shall immediately report to RA any suspected instances of unauthorized use of the RA Online Platforms, or any other suspected breaches of security.

3.3. You will not use the RA Online Platforms:

3.3.1. to circumvent or manipulate the fee structure, the billing process, or fees owed to RA,

3.3.2. to post false, inaccurate, misleading or offensive content,

3.3.3. to distribute or post spam, unsolicited, or bulk electronic communications, chain letters, or pyramid schemes,

3.3.4. to distribute viruses or any other technologies that may harm RA, or the interests or property of other users of the RA Online Platforms,

3.3.5. to copy, modify or distribute rights or content from the RA Online Platforms, or

3.3.6. to harvest or otherwise collect information about users, including email addresses, without their (or RA's) consent.

3.4. RA takes no responsibility and assumes no liability for any content posted in any RA Online Platform by you or any other user of the RA Online Platform ("User Data") or for any report, assessment, analysis, aggregation, mapping, or similar activities conducted by RA using User Data. RA is not a party to any agreements entered into between you and other participants in the RA certification program.

3.5. The RA Online Platforms and the information therein are provided to you on an "as is" and "as available" basis without any representation, endorsement or warranty of any kind, express or implied (by law or otherwise), including as to (i) availability, accuracy, quality, completeness, or fitness for any purpose or (ii) freedom from bugs, defects or viruses. To the maximum extent permitted by law, RA excludes all representations, warranties, conditions, and other terms relating to the RA Online Platforms, except that RA commits to the following:

3.5.1. RA will use commercially reasonable efforts to make the RA Online Platforms available 24 hours a day, 7 days a week except (a) during planned downtime (of which RA will give advance notice on the applicable RA Online Platform) and (b) during downtime that is the result of forces beyond RA's reasonable control, including, but not limited to, an act of God, act of government, flood, fire, earthquake, civil unrest, pandemic, act of terror, strike or other labor problem (other than one involving RA employees), internet service provider failure or delay, or acts undertaken by third parties, including without limitation denial of service attacks or other cyberattacks.

3.5.2. In the event of extended downtime of an RA Online Platform that materially

impacts your ability to sell Certified Product as certified, RA will use commercially reasonable efforts to provide alternative work-arounds or other solutions in order to reduce such negative impacts.

3.6. You shall ensure that each of your users of the RA Online Platforms is aware of and complies with the terms of this Section 3 and shall be responsible for their compliance. RA shall have the right to suspend or terminate your access to the RA Online Platforms in the event of any misuse or security breach by you or your users.

3.7. RA reserves the right to collect http header information and to make use of cookies on its systems for tracking and analytical purposes.

3.8. The RA Online Platforms and their contents are protected Copyright © 2021 by RA. All of the writing contained in the RA Online Platforms is the property of RA and is protected under international copyright law. All rights reserved. The contents of the RA Online Platforms may not be reproduced without RA's prior written permission, with the following exception: Organizations may print copies for their own business use, provided that the content of the copies may not be altered and the appropriate copyright and/or trademark notice must be affixed to each copy printed, where applicable. You agree not to infringe the copyrights or other intellectual property rights of RA or of any other users of the RA Online Platforms or anyone who submits information to the RA Online Platform. You must report immediately to RA any actual or suspected violations of copyright or intellectual property rights of which it becomes aware, whether such actual or suspected violation involves RA's rights or the rights of a third party.

3.9. Personal Information. With respect to the collection, processing or transfer of personal information data in connection with the RA certification scheme, you shall comply with any and all applicable data protection laws applicable to you and/or the individual about whom the personal information will be collected, processed or transferred. Where necessary, you are responsible for obtaining consent to such collection, processing or transfer of personal information.

#### **4. Transparency and Confidentiality**

4.1. Public Information. RA seeks to bring transparency to certification and supply chains in the sectors in which we work. You acknowledge and agree that RA may publish the following information related to your operations, upon obtaining certification. RA and certification bodies may publish certification-related information for the general public in the form of public summaries (which may include audit report summaries). RA also publishes summary information about certificate holders, as set forth in the Certification Binding Documents, which can be found here: <https://www.rainforest-alliance.org/business/sustainable-farming/farm-certification/certificate-search-and-public-summaries/>, the content of which may be updated to incorporate additional information from time to time. RA may publish the certificate holder location along with the name of the certificate holder, the RA certificate identification code, crop type, size of certified area, selling marks, certification status subject to any ongoing investigation, confirmed nonconformities with the RA Standards (if any) and their descriptions, and the number of farms covered by a group certificate. RA also publishes information on how to find certified products <https://www.rainforest-alliance.org/find-certified> and provides lists of publicly available certified products including barcode information to online retailers or other parties upon request based on the launch date indicated in the request for approval to use RA Marks. RA and its partners may use data collected or provided by or about your operations through the certification process to prepare and publish analyses, reports, and performance or risk metrics for the purposes of (1) improving our program, (2) demonstrating impact, (3) research including market research, (4) monitoring and evaluation, (5) to verify compliance with the Binding Documents, and (6) to evaluate data integrity and sector credibility. Such analyses, reports, and performance or risk metrics shall be aggregated and anonymized (to a minimum of three data points) to the extent they contain commercially sensitive information, for example, volume and commercial value. RA shall not be responsible or liable for any identifiability due to certificate scarcity in certain sectors or regions. This public information shall not be considered confidential. RA may publicly disclose information about its relationship with you not otherwise defined as public information in this section with your written consent, provided that you shall not unreasonably withhold or delay such consent.

#### **4.2. Audit and Supply Chain Data**

4.2.1. With Auditors and Certification Bodies. RA may share information relating to your operations with auditors and certification bodies (and other parties to the extent set forth in the Certification Binding Documents) as needed or helpful to support the certification program, including, without limitation, contact information, previous audit reports, traceability volume reports, sustainability differential payment and investments and any

other information required to be shared as set forth in the Certification Binding Documents.

4.2.2. What RA Will Share Within a Supply Chain. RA may share Supply Chain Data within a particular supply chain (in addition to information that may be published as described in Section 4.1 herein) as provided for in the Certification Binding Documents. You shall keep such Supply Chain Data confidential.

4.2.3. What RA Will Share with Third Parties Upon Request. If you request that RA share your Supply Chain Data with a third party, RA may do so on an aggregated and anonymized basis (to a minimum of three data points), provided that you execute a nondisclosure agreement with such third party.

4.2.4. With Third-Party Researchers. RA may share disaggregated anonymized certification performance data with third-party researchers to evaluate the effectiveness of our programs. Such disclosure shall always be subject to a nondisclosure agreement between RA and the third-party researcher.

4.3. Confidentiality. Other than as set forth herein in section 4.1 (Public Information) and 4.2 (Audit and Supply Chain Data), as between you and RA, neither party shall disclose or publish any information identified as confidential by the party furnishing it without the furnishing party's express written consent, unless (i) the disclosure is to the receiving party's attorneys or authorized agents; (ii) disclosure is required by law or by a judicial, governmental or regulatory body; (iii) such information was publicly available prior to its disclosure by the furnishing party or thereafter becomes publicly available without any violation of these Terms and Conditions or the Binding Documents by the receiving party; (iv) the information was available to the receiving party on a non-confidential basis prior to its disclosure by the furnishing party; (v) the information becomes available to the receiving party from a person other than the furnishing party or its representatives and such person is not, to the best knowledge of the receiving party, subject to any legally binding obligation to keep such information confidential; or (vi) RA determines that such disclosure is necessary to protect the integrity of the certification system and the reputation of RA and the RA Marks. The obligations under this section 4.3 (Confidentiality) herein shall survive for a period of three (3) years following the termination of these Terms and Conditions.

## 5. Costs and Traceability; Royalties

- 5.1. Certification Costs. Certification Costs vary depending on the type of activity that you are engaged in. You may need to pay Certification Costs to a certification body (e.g., to conduct an audit) or to RA or actors within a particular supply chain (e.g., to obtain a supply chain risk assessment or for a Sustainability Differential or Sustainability Investments). If you are required to undergo a supply chain risk assessment ("SCRA") as described in the Binding Documents, RA may introduce an SCRA fee paid to RA for each site included in the certification scope at the time that such SCRA is conducted.
- 5.2. Traceability References. RA Traceability References for transactions occurring during the calendar quarter or month must be entered within two (2) weeks following the end of such calendar quarter or month.
- 5.3. Royalties. You are responsible for payment of Royalties to the extent you are the applicable Supply Chain Actor responsible for payment of royalties as set forth in the Royalty Schedule or to the extent you have otherwise agreed to be assigned the obligation to pay Royalties, in which case the terms of the Rainforest Alliance License Terms and Conditions with respect to Royalty payment terms and obligations shall apply to such obligation.
- 5.4. Selling as Certified. You may only sell product as Certified Product if (i) it is Certified Product, and (ii) a Traceability Reference has been issued (if applicable, as set forth in the Binding Documents). You are responsible for compliance with the advertising rules of the jurisdictions where You sell the Certified Product.

## 6. Other Provisions

6.1. No License for Use of RA Marks or Sale as Certified Product. You may not use the RA Marks or sell product as Certified Product unless you have a valid license agreement with RA or otherwise have specific prior written authorization from RA regarding such use. Nothing in these Terms and Conditions grants you any rights to use the RA Marks or sell product as Certified Product.

6.2. Termination and Suspension. RA may immediately suspend or terminate your participation in the RA Online Platforms if you breach or fail to comply with any of your obligations under these Terms and Conditions or the applicable Binding Documents. Following such suspension or termination, you may reapply to participate in the applicable RA Online Platform provided you cure such breach or failure to comply with your obligations under these Terms and Conditions. Upon suspension or termination, you shall cease to have access to the RA Online Platforms.

6.3. Mutual Representations & Warranties. You and RA each warrant to each other that (a) they are duly organized and validly existing and have full power and legal right to consent to these Terms and Conditions and to perform the obligations of the Binding Documents on their parts to be performed; (b) the execution, delivery and performance of these Terms and Conditions and acceptance and performance of the other Binding Documents have been duly authorized by all necessary corporate and governmental action; and (c) these Terms and Conditions and the other Binding Documents are their valid and binding obligations, enforceable against them in accordance with their terms.

6.4. Dispute Resolution. In the event of any dispute, controversy or claim between you and RA relating to the Binding Documents or these Terms and Conditions, the parties shall first seek to resolve the dispute through informal discussions. In the event the parties do not resolve the dispute through informal discussions, the parties agree that any disputes shall be resolved through:

6.4.1. If you are domiciled in the United States, litigation in a court of competent jurisdiction in New York City, New York, USA, or

6.4.2. If you are domiciled outside the United States, binding arbitration in New York City, New York, U.S.A, in accordance with the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules as in effect at the time of the claim. The appointing authority shall be the International Centre for Dispute Resolution (“ICDR”). The case shall be administered by the ICDR under its Procedures for Cases under the UNCITRAL Arbitration Rules. The language of the arbitration shall be English. The dispute shall be resolved by three arbitrators, of whom each party shall select one, with the third arbitrator to be selected by the two party-appointed arbitrators within 30 days of the appointment of the second party-appointed arbitrator. If the arbitrators selected by the parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the ICDR. The decision of the arbitrators shall be final and binding upon the parties and their respective successors and assigns, and the parties agree that judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Except as may be required by law, neither a party nor any arbitrator(s) may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

6.5. No Waiver. The failure by either party to enforce any of the provisions of the Binding Documents shall in no way be considered a waiver of such provisions or in any way affect the validity of the Binding Documents.

6.6. Notices. All notices and statements to be given and all payments to be made hereunder shall be in writing and given or made electronically at the address as set forth in the RA Online Platforms. It is your responsibility to provide timely updates of your contact information on any RA Online Platform on which you are registered, and you shall be deemed to have been given valid notice sent by RA using the information on the applicable RA Online Platforms at the time such notice is delivered. Notice to RA shall be made electronically to customersuccess@ra.org.

6.7. Governing Law. The Binding Documents shall be governed by, and construed in accordance with, the laws of the State of New York, United States of America (excluding New York’s choice of law rules).

6.8. Severability. In the event that any one or more provisions of these Terms and Conditions or the Binding Documents shall be or become invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions of these Terms and Conditions or the Binding Documents, as applicable, shall not be affected.

6.9. Precedence of Binding Documents. The following order of precedence of the Binding Documents shall apply in the event of any inconsistency between them: (i) the Certification Binding Documents (other than the UTZ Terms and Conditions), (ii) a license agreement between you and RA, if applicable, (iii) these Terms and Conditions, and (iv) all other Binding Documents.

In the event of any inconsistency between these Terms and Conditions and the UTZ Terms and Conditions, these Terms and Conditions shall govern.

6.10. Section Headings. Section headings in these Terms and Conditions are for convenience of reference only and are not to be taken into consideration in the interpretation hereof.

6.11. Language. The Binding Documents are prepared in the English language, which language shall be controlling in all respects. Any translations of the Binding Documents into any other languages are for reference only and shall have no legal or other effects.

6.12. Updates to Binding Documents. The Binding Documents, including, without limitation, these Terms and Conditions, are subject to change. RA will provide notice of such changes to you pursuant to section 6.6 (Notices) herein. Minor changes to the Binding Documents to correct typos, clarify language, or that waive or lessen a requirement, shall be effective upon publication or as otherwise provided for in the notice. Substantive amendments or changes to the Binding Documents other than the Certification Binding Documents shall be effective no sooner than three (3) months following notice to you and publication on the RA website. RA will endeavor to provide at least three (3) months' notice regarding changes to the Certification Binding Documents, but reserves the right to introduce such changes with immediate effect or on other notice shorter than three (3) months where necessary to protect the credibility and integrity of the RA certification scheme. You are responsible for ensuring that your contact details and information access permissions as set forth in the applicable RA Online Platforms remain current at all times.

6.13. Amendment/Waiver. No amendment or waiver of any provision of these Terms and Conditions or the other Binding Documents shall be effective unless in writing and signed by the parties hereto. Notwithstanding the foregoing, RA shall have the right to amend the Binding Documents, as set forth in these Terms and Conditions.

6.14. Non-transferable. You shall not sell, assign, sub-license, or otherwise transfer any of your rights under the Binding Documents to any third party.

6.15. Consent. Your electronic acceptance to these Terms and Condition via checkbox, click-through, or other similar electronic means of acceptance on an RA Online Platform constitutes valid and binding consent to these Terms and Conditions.

If you have any questions about these Terms and Conditions or registration in RACP, please contact [CustomerSuccess@ra.org](mailto:CustomerSuccess@ra.org).