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**The New Zealand Climate Clause Bank**

This document includes clauses that can be used in contracts to help reduce the carbon footprint of the parties either generally, or in the performance of the particular contract. The clauses have been adapted from The Chancery Lane Project’s clause bank of best practice-aligned climate drafting for use in Aotearoa. They have been developed with the assistance of the firms listed in the appendix. The Chancery Lane Project’s full clause bank can be found [here](https://chancerylaneproject.org/climate-clauses/).

**Notes for use:** These clauses have been drafted as generic, stand-alone clauses for inclusion in a contract and are examples only. As relevant, they should be amended to align with the existing definitions and style of the document in which they are included (including by consolidating and updating definitions as required). Not all clauses will necessarily be appropriate for all transactions, and these draft clauses do not purport to be comprehensive or provide legal advice. Legal advice should be obtained before adopting these clauses in whole or in part.

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**Boilerplate clauses (for all relevant documents)**

### ***Clause 1 – green dispute resolution (adapted from*** [***Toby’s Clause***](https://chancerylaneproject.org/climate-clauses/avoidance-of-excessive-paperwork-in-dispute-resolution/)***)***

**Why you might use it**

This clause can be used in any commercial agreement. It provides certainty that any dispute must be handled in a manner that minimises travel and reduces the use of paper. The clause also includes a commitment by both parties to offset emissions arising from any dispute and to consider how such dispute may be handled in a way that minimises greenhouse gas emissions.

The climate issue

Litigation and arbitration create considerable and unnecessary amounts of physical paperwork and printing. Paper is energy intensive and has a significant carbon and water footprint. Litigation and arbitration can also require significant travel commitments, for parties, lawyers, witnesses and experts (generally by air). Short-haul aviation is one of the most emissions intensive means of travel.

The clause

1. **GREEN DISPUTE RESOLUTION**
   * 1. In the event of any dispute arising out of, or in any way connected to, this document:
2. [all notices and communications between the parties will be sent by electronic means;][[1]](#footnote-2)
3. the parties will use reasonable endeavours to ensure that meetings and dispute resolution processes (such as mediation and arbitration) relating to the dispute will, where reasonably practicable, be held virtually;
4. subject to paragraph (iv) below, where reasonably practicable, electronic documents will be used in negotiations, meetings and dispute resolution processes (such as mediation and arbitration) in preference to printed documents; and
5. Electronic Bundles will be used to prepare for, and during, meetings or hearings.
   * 1. The obligation under paragraph (a) above is subject to any party’s obligation to the contrary found in any relevant legislation, rules, court or tribunal order, procedural rule, practice direction, protocol or court guide, any direction or request from the adjudicator of the dispute, or any applicable law.
     2. Where a paper bundle is used at any stage in a dispute, the parties must use reasonable endeavours to:
6. use [FSC-certified][recycled paper], non-solvent-based printer ink and cardboard (non-plastic) tabs, dividers and folders; and
7. subject to any legal obligations to retain copies and any professional confidentiality commitments, dispose of the bundle through secure recycling.
   * 1. Each party will use reasonable endeavours to:
8. measure its [GHG Emissions][greenhouse gas emissions][[2]](#footnote-3) arising from the procedure to resolve the dispute (for example, [GHG Emissions][emissions] from travel to, and accommodation at, the venue of the dispute resolution) [using a commonly accepted method of emissions measurement (such as calculators provided by reputable emissions verifications providers)][[3]](#footnote-4); and
9. ensure that its lawyers, advisers and other third-party consultants in respect of the dispute similarly comply with paragraphs (a) and (c) above.

Select relevant option

* + 1. [Each party will, within [one month] of resolution of any dispute:
       1. contribute towards Climate Change Mitigation by offsetting its [GHG Emissions][greenhouse gas emissions] arising from the procedure to resolve the dispute, for example, by purchasing (and cancelling) New Zealand units as defined in the Climate Change Response Act 2002 or procuring the planting of Native Trees; and
       2. use [best][reasonable] endeavours to procure that the party’s lawyers, advisers and other third-party consultants contribute towards Climate Change Mitigation by offsetting their [GHG Emissions][greenhouse gas emissions] arising from any air or vehicle travel arising from the procedure to resolve the dispute, for example, by purchasing (and cancelling) New Zealand units as defined in the Climate Change Response Act 2002 or procuring the planting of Native Trees.][[4]](#footnote-5)

*OR*

* + 1. [Each party will, within [one month] of resolution of any dispute, contribute towards Climate Change Mitigation by offsetting its [GHG Emissions][greenhouse gas emissions] (including those of that party’s witnesses, lawyers, advisers and other third-party consultants) arising from the procedure to resolve the dispute, for example, by purchasing (and cancelling) New Zealand units as defined in the Climate Change Response Act 2002 or procuring the planting of Native Trees.][[5]](#footnote-6)
    2. The obligation under paragraph [(e)][(f)] above does not apply to a party to the extent that the party has achieve a certified Carbon Neutral status in each year in which the dispute is undertaken and resolved, provided that the assessment of the party’s Carbon Footprint in the relevant years takes into account the [GHG Emissions][greenhouse gas emissions] arising from the procedure to resolve the dispute.
    3. [In this clause:

*Carbon Footprint* means, in respect of a party, the amount of carbon dioxide equivalent units that will be released into the atmosphere because of the business operations of that party as determined in accordance with The Greenhouse Gas Protocol: A Corporate Accounting and Reporting Standard, Revised Edition 2015.

*Carbon Neutral* means, in respect of a party, the reduction and offset of the party’s Carbon Footprint on an annual basis, achieved by:

* + - 1. first, using reasonable endeavours to reduce its Carbon Footprint; and
      2. second, offsetting its residual Carbon Footprint (for example, by purchasing (and cancelling) New Zealand units as defined in the Climate Change Response Act 2002).

*Climate Change Mitigation* means human intervention or efforts to reduce the sources or enhance the sinks of [GHG Emissions][greenhouse gas emissions].

*Electronic Bundles* means a bundle of documents for use by the parties and court or tribunal (as required) in electronic format.

[*GHG Emissions* means a party’s emissions of GHGs from all sources, categorised as scope 1, 2 and 3 emissions by The Greenhouse Gas Protocol: A Corporate Accounting and Reporting Standard, Revised Edition 2015.

*GHGs*means the natural and anthropogenic gases which trap thermal radiation in the earth’s atmosphere and are specified in Annex A to the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC) or otherwise specified by the UNFCCC at the date of this document.][[6]](#footnote-7)

*Native Trees* means those species of trees which are listed as native on the website of the Department of Conservation – Te Papa Atawhai.][[7]](#footnote-8)

### ***Clause 2 – electronic notices***

Why you might use it

This clause can be used in any commercial agreement. It provides certainty that any notice required under the agreement must be delivered in a manner that minimises travel and reduces the use of paper.

The climate issue

Providing physical notice is generally not required under a contract, and many contracts already contemplate electronic delivery of notices. Printing a notice that can be sent electronically creates uses energy. Paper is energy intensive and has a significant carbon and water footprint. Posting notices generates emissions through the use of fossil fuels to power the planes, trucks and vans that deliver post.

The clause

1. **ELECTRONIC NOTICES PREFERRED**

Any party providing a notice under this document will give notice electronically, provided that, if that party is unable to effect or confirm delivery of the notice electronically, or delivery of the notice electronically is not permitted by law, it will [to the extent practicable][use reasonable endeavours to (to the extent practicable)][[8]](#footnote-9):

* + 1. use [FSC-certified][recycled paper] and non-solvent-based ink when printing a notice; and
    2. if the notice is being delivered by hand, courier or post, use a delivery method that minimises the [greenhouse gas emissions][[9]](#footnote-10) associated with that delivery [(for example, by using a courier service that utilises electric vehicles or is certified as carbon neutral)].

### ***Clause 3 – further assurances (adapted from*** [***Nico’s Clause***](https://chancerylaneproject.org/climate-clauses/cooler-plate-clauses-climate-aligned-boilerplate/)***)***

Why you might use it

This clause can be used in any commercial agreement. It requires the parties to the emissions associated with the performance of the agreement. By considering the emissions associated with an action under an agreement, parties are more likely to take steps to mitigate those emissions.

The climate issue

The performance of a contract can create emissions in many ways. Each contract will have its own particular emissions profile. For example, a contract to construct a building will create emissions through the materials chosen and the construction methods used. A contract to perform services will create emissions through the way those services are delivered (whether travel is required, whether data needs to be stored in a country that uses fossil fuels to generate electricity, whether documents need to be prepared and/or printed).

The clause

1. **FURTHER CLIMATE ASSURANCE**

Each party agrees to take reasonable steps it considers necessary to minimise the [greenhouse gas emissions][[10]](#footnote-11) of its activities wherever practicable when performing its obligations under this document.

### ***Clause 4 – electronic signatures (adapted from*** [***Nico’s Clause***](https://chancerylaneproject.org/climate-clauses/cooler-plate-clauses-climate-aligned-boilerplate/)***)***

Why you might use it

This clause can be used in any commercial agreement. It requires the parties to sign documents electronically to avoid the need to print copies.

The climate issue

Execution of contracts can create considerable and unnecessary amounts of physical paperwork and printing (particularly when a contract is very large and/or multiple copies are required). Paper is energy intensive and has a significant carbon and water footprint. Often, the hard copy signed contract is then scanned to be stored electronically and is not the document that is referred to for ongoing contract management.

The clause

1. **COUNTERPARTS AND ELECTRONIC SIGNATURES**
   * 1. [*Insert standard counterparts clause*]
     2. This document may be executed by electronic signatures which meet the identification and reliability standards for electronic signatures set out in the Contract and Commercial Law Act 2017. The parties agree to:
        1. be bound by those electronic signatures, and that those electronic signatures are as reliable as appropriate given the purpose of this document and the circumstances; and
        2. use reasonable endeavours to sign this document in a manner that avoids unnecessary printing, physical delivery or in-person signing where travel (other than on foot or by other non-emitting means) may be required.

## **Shareholders’ agreement clauses**

### ***Clause 1 – electronic board meetings***

Why you might use it

This clause can be used in any shareholders’ agreement or company constitution. It requires the directors to endeavour to hold meetings electronically in order to minimise travel and the need for printed documents. This clause works well if the company is subject to an obligation to reduce its carbon footprint (such as clause 2 or clause 3 in this section).

The climate issue

Board meetings can require significant travel commitments, for directors, company management and other people who need to present to the meeting (generally by air). Short-haul aviation is one of the most emissions intensive means of travel. Board meetings can also create considerable and unnecessary amounts of physical paperwork and printing. Paper is energy intensive and has a significant carbon and water footprint.

The clause

1. **BOARD MEETINGS**
   * 1. Board meetings may be held by telephone or other electronic means.
     2. [Considering the obligation under clause [●], the][The][[11]](#footnote-12) Board [must use reasonable endeavours to ensure that at least [50]%[[12]](#footnote-13) of the Board meetings in each year are conducted by telephone or electronic means][will consider whether any given Board meeting can be conducted by telephone or electronic means and will use reasonable endeavours to prefer that method of meeting where practical and appropriate][[13]](#footnote-14). To avoid doubt, where all physical attendees at the Board meeting (whether or not some attendees also attend by telephone or other electronic means) can travel to it on foot or by other non-emitting means, that meeting will discharge the Board’s reasonable endeavours obligation under this clause.
     3. [To the extent reasonably practicable, materials for each Board meeting will be prepared and distributed electronically.]

### ***Clause 2 – simple net zero clause***

Why you might use it

This clause can be used in any shareholders’ agreement. It requires the shareholders to work towards operating the company in a carbon neutral manner. However, it does not set specific targets for when this should be achieved (unlike clause 3 in this section). As such, it might be more appropriate for a company that is embarking on its emissions reduction journey, or which is a new or fast-growing company that does not yet have a good understanding of its emissions profile.

The climate issue

Ultimately, all economic activity creates emissions. A company’s carbon footprint can be extensive and varied. All companies will use electricity, which creates emissions. Some companies will generate emissions from manufacturing products and distributing them to customers. Some will create emissions through the way they deliver their services (such as travelling for meetings). Some companies will create emissions through their staff commuting to work. All companies will have emissions throughout their supply chains (as the goods and services they purchase themselves create emissions).

The clause

1. **CARBON NEUTRALITY**
2. The parties agree that their collective intention is that the Business of the Company should ultimately be conducted in a manner which is at least Carbon Neutral and agree to work together in good faith to further that intention.
   * 1. In this clause:

*Carbon Footprint* means the amount of carbon dioxide equivalent units that will be released into the atmosphere because of the Business operations as determined in accordance with The Greenhouse Gas Protocol: A Corporate Accounting and Reporting Standard, Revised Edition 2015.

*Carbon Neutral* means the reduction and offset of the Company’s Carbon Footprint on an annual basis, achieved by:

* + - 1. first, using reasonable endeavours to reduce its Carbon Footprint; and
      2. second, offsetting its residual Carbon Footprint (for example, by purchasing (and cancelling) New Zealand units as defined in the Climate Change Response Act 2002).

### ***Clause 3 – more onerous net zero clause (adapted from an extract of*** [***Lauren’s Clause***](https://chancerylaneproject.org/climate-clauses/green-shareholders-agreement/)***)***

Why you might use it

This clause can be used in any shareholders’ agreement. It enables shareholders to embed environmental, social and governance matters at the highest level of the company, and prioritise them over short term fast growth to deliver better performance and long term value. It obliges the company to operate consistently with an emissions reduction target and the shareholders to engage in climate change mitigation or relinquish their benefits.

The climate issue

Ultimately, all economic activity creates emissions. A company’s carbon footprint can be extensive and varied. All companies will use electricity, which creates emissions. Some companies will generate emissions from manufacturing products and distributing them to customers. Some will create emissions through the way they deliver their services (such as travelling for meetings). Some companies will create emissions through their staff commuting to work. All companies will have emissions throughout their supply chains (as the goods and services they purchase themselves create emissions).

The clause

1. **CARBON FOOTPRINT MANAGEMENT**
   * 1. The Board will procure that the Business of the Company ultimately be conducted in a manner which is at least Carbon Neutral.
     2. [Within [30] Business Days from the date of this document the Board will meet and resolve to determine the Company’s plan to achieve and at least maintain its Carbon Neutral status (the *Carbon Neutral Plan*), which should include a proposed date by which the Company will be Carbon Neutral (the *Carbon Neutral Date*).][[14]](#footnote-15)

*OR*

* + 1. [Within [30] Business Days from the date of this document the Board will meet and resolve to determine the Company’s plan to achieve and at least maintain its Carbon Neutral status (the *Carbon Neutral Plan*), which should:
       1. include a proposed date by which the Company will be Carbon Neutral (the *Carbon Neutral Date*);
       2. include interim Carbon Footprint reduction targets;
       3. [include an offset policy for reducing the Company’s residual Carbon Footprint;] and
       4. be [consistent with][informed by] the emissions budgets and reductions adopted under the Climate Change Response Act 2002.][[15]](#footnote-16)
    2. The Board will review and evaluate the Company’s Carbon Neutral status and Carbon Neutral Plan on a quarterly basis (a *Sustainability Review Meeting*) and minutes of those meetings will be provided to all Shareholders.
    3. The Board must provide any further information reasonably requested by a Shareholder in respect of the Company’s Carbon Neutral Plan and Carbon Footprint, including any information recommended to be disclosed by a Company under the GHG Protocol or the Aotearoa New Zealand Climate Standards published by the External Reporting Board, provided that any such request is made by a Shareholder within [30] Business Days of receipt of the minutes provided under paragraph (d) above.
    4. Promptly following the end of each Financial Year, the Board must provide the Shareholders with details of the Company’s total Carbon Footprint for that Financial Year.

Select relevant option

* + 1. [During the term of this document, the Company and each Shareholder agrees to undertake annual Carbon Offsetting at the following levels:
       1. by the end of each Financial Year, each Shareholder must purchase carbon credits from a Carbon Offset Provider to offset an amount of carbon dioxide equivalent units equal to that Shareholder’s share of the total annual Carbon Footprint in the preceding year (as determined in accordance with paragraph (f) above) determined by reference to that Shareholder’s percentage holding of Shares in the Company, provided that:
          1. where a person has only been a Shareholder for part of a Financial Year, that person’s obligation under this clause applies to the pro rata share of the Carbon Footprint during the time they were a Shareholder; and
          2. a Shareholder must not transfer all its Shares (and cease to be bound by this document) unless it has purchased the carbon credits for its share of the Carbon Footprint in the most recently-completed Financial Year; and
       2. within [three] months of the date for compliance with paragraph (i) above, the Company must purchase carbon credits from a Carbon Offset Provider to offset any residual annual Carbon Footprint as determined in accordance with paragraph (f) above, taking into account the carbon credits purchased by each Shareholder, and any failure by a Shareholder to comply with its obligation, under paragraph (i) above.
    2. Evidence of each Shareholder’s compliance with paragraph (g) above will be provided to the Board by each Shareholder as soon as reasonably possible (but in any event no later than [one month]) after the end of each Financial Year. Evidence of the Company’s compliance with paragraph (g) above will be provided within [one month] of the time for compliance with its obligation under paragraph (g)(ii) above.
    3. Without affecting any other right available to the Company under this document, where a Shareholder fails to submit evidence of compliance with paragraph (g) above by the date due and remains in default after having been given [15] Business Days’ notice to comply:
       1. the Company will be entitled to recover from the Shareholder the amount incurred by the Company under paragraph (g)(ii) above in order to remedy the Shareholder’s default, together with interest on that amount calculated on a daily basis [at the rate charged by the Company’s bank for overdraft facilities]. To avoid doubt, payment to the Company of the amount calculated under this clause will remedy the Shareholder’s default under this clause;
       2. while the Shareholder remains in default, it will not be permitted to exercise [any voting rights in respect of its Shares,][[16]](#footnote-17) any pre-emptive rights available to it under clause [●][[17]](#footnote-18), any drag-along rights under clause [●][[18]](#footnote-19), or any tag-along rights under clause [●][[19]](#footnote-20); and
       3. without limiting paragraph (g)(i)(B) above, while the Shareholder remains in default and wants, or is required, to transfer Shares pursuant to any tag-along or drag-along rights, the price payable by the other Shareholders for those shares on acceptance of a [Sale Notice] (as defined in clause [●][[20]](#footnote-21)) will be discounted by the amount required to remedy the default.][[21]](#footnote-22)

*OR*

* + 1. [During the term of this document, the Company and each Shareholder agrees to ensure that the Company undertakes annual Carbon Offsetting by the Company purchasing carbon credits from a Carbon Offset Provider to offset its total annual Carbon Footprint as determined in accordance with paragraph (f) above. The Company must undertake the Carbon Offsetting under this clause by the end of each Financial Year in respect of the total annual Carbon Footprint in the preceding year.
    2. Evidence of the Company’s compliance with paragraph (j) above must be provided no later than [one month]) after the end of each Financial Year.][[22]](#footnote-23)

*OR*

* + 1. [During the term of this document, each Shareholder agrees to undertake annual Carbon Offsetting by, by the end of each Financial Year, purchasing carbon credits from a Carbon Offset Provider to offset an amount of carbon dioxide equivalent units equal to that Shareholder’s share of the total annual Carbon Footprint in the preceding year (as determined in accordance with paragraph (f) above) determined by reference to that Shareholder’s percentage holding of Shares in the Company, provided that:
       1. where a person has only been a Shareholder for part of a Financial Year, that person’s obligation under this clause applies to the pro rata share of the Carbon Footprint during the time they were a Shareholder; and
       2. a Shareholder must not transfer all its Shares (and cease to be bound by this document) unless it has purchased the carbon credits for its share of the Carbon Footprint in the most recently-completed Financial Year.
    2. Evidence of each Shareholder’s compliance with paragraph (l) above will be provided to the Board by each Shareholder as soon as reasonably possible (but in any event no later than [one month]) after the end of each Financial Year.
    3. Without affecting any other right available to the Company under this document, where a Shareholder fails to submit evidence of compliance with paragraph (l) above by the date due and remains in default after having been given [15] Business Days’ notice to comply:
       1. while the Shareholder remains in default it will not be permitted to exercise [any voting rights in respect of its Shares,][[23]](#footnote-24) any pre-emptive rights available to it under clause [●][[24]](#footnote-25), any drag-along rights under clause [●][[25]](#footnote-26), or any tag-along rights under clause [●][[26]](#footnote-27), until the default has been remedied; and
       2. without limiting paragraph (l)(ii) above, while the Shareholder remains in default and wants, or is required, to transfer Shares pursuant to any tag-along or drag-along rights, the price payable by the other Shareholders for those shares on acceptance of a [Sale Notice] (as defined in clause [●][[27]](#footnote-28)) will be discounted by the amount required to remedy the default.][[28]](#footnote-29)
    4. Despite paragraph [(f)] above, the obligations under paragraph [(g)] above will not apply in any Financial Year where the Company achieves Carbon Neutral status for the preceding Financial Year. [In this event, each Shareholder will be obliged to undertake Carbon Offsetting in the Financial Year but the quantum of carbon credits to be purchased by a Shareholder will be at its own discretion. Each Shareholder must provide evidence of its Carbon Offsetting to the Board for the Financial Year and the Board will be permitted to share that information with all Shareholders.][[29]](#footnote-30)

* + 1. [In this clause:

*Carbon Footprint* means the amount of carbon dioxide equivalent units that will be released into the atmosphere because of the Business operations as determined in accordance with the GHG Protocol.

*Carbon Neutral* means the reduction and offset of the Company’s Carbon Footprint on an annual basis, achieved by:

* + - 1. first, using reasonable endeavours to reduce its Carbon Footprint; and
      2. second, offsetting its residual Carbon Footprint, for example, by purchasing (and cancelling) New Zealand units as defined in the Climate Change Response Act 2002.

*Carbon Offsetting*means the purchase (and cancellation) of a quantity of carbon credits from a project that has been verified by a Carbon Offset Provider or by United Nations Framework Convention on Climate Change clean development mechanism project.

*Carbon Offset Provider* means the following organisations: [*Insert approved offset providers, for example, from the list provided here: https://environment.govt.nz/what-government-is-doing/areas-of-work/climate-change/carbon-neutral-government-programme/measuring-and-reducing-your-emissions-through-the-cngp/suppliers-of-emissions-expertise-and-services/, and consider adding a general catch all “any organisation generally recognised in the Aotearoa New Zealand carbon offsetting market as providing creditable offsets that will sustain the Company’s representations to stakeholders regarding its Carbon Neutral status”*].

*GHG Protocol* means The Greenhouse Gas Protocol: A Corporate Accounting and Reporting Standard, Revised Edition 2015.][[30]](#footnote-31)

**SCHEDULE 1 - MATTERS REQUIRING SHAREHOLDER CONSENT**

*Company Operations*

1. Making any change to the target Carbon Neutral Date (as defined in clause [●][[31]](#footnote-32)).

## **Supply agreement clauses**

### ***Clause 1 – termination for greener supplier (adapted from*** [***Annie’s Clause***](https://chancerylaneproject.org/climate-clauses/carbon-termination-short-form/)***)***

Why you might use it

This clause can be used in any supply agreement. It gives customers a right to switch suppliers if the existing supplier is unable to match a ‘greener’ offer from an alternative supplier. It embeds the assessment of green credentials into procurement, supports parties to meet their emissions reduction targets.

The climate issue

Ultimately, all economic activity creates emissions. A company’s carbon footprint is made up, in part, of the emissions generated in its supply chain. Being able to reduce those emissions through contractual allows a company to reduce its own emissions and incentivises higher emitting participants in an industry to improve their practices.

The clause

1. **GREEN TERMINATION**
   * 1. Without affecting any other right or remedy available to it, the [Customer] may terminate this document by giving [three months’] written notice to the [Supplier]:
        1. if the [Customer], acting in good faith and having made a reasonable comparison of the [Supplier] and other available suppliers of the same or similar [Services], has decided to switch to an alternate supplier to provide the [Services] (the *New Supplier*), and engaging the New Supplier will allow the [Customer] to reduce the [Customer]’s Carbon Footprint, provided:
           1. the potential reduction in the [Customer]’s Carbon Footprint will reduce the [Customer]’s overall Carbon Footprint, calculated at the time of the comparison, by at least [●]%;
           2. the [Customer]’s Carbon Footprint (including the proposed reduction in the [Customer]’s Carbon Footprint as a result of engaging the New Supplier) is calculated using a reputable, objective and reasonable measuring criteria [(with that calculation also meeting the requirements of the [Customer]’s usual methodology for determining its Carbon Footprint)];[[32]](#footnote-33)
           3. the calculated reduction in the [Customer’s] Carbon Footprint is based solely on the change of supplier and not on any other emissions reduction actions of the [Customer];
           4. the proposed contract with the New Supplier contains obligations that are no less onerous in all material respects to those of the [Supplier] under this document; and
           5. the [Supplier] has first been provided an opportunity by the [Customer] (for a period of at least [six] months to make changes to the Supplier’s systems, processes, procedures and activities to reduce[, or provide a pathway the [Customer] reasonably believes is capable of reducing (within [12] months),][[33]](#footnote-34) the [Customer’s] Carbon Footprint to a level that is equivalent to or greater than the reduction the [Customer] has assessed it can achieve with the New Supplier;
        2. if the [Supplier]’s environmental practices, negative environmental impacts, lobbying activities, partnerships, trade associations or public policy positions bring, or are reasonably likely to bring, the Customer’s reputation into disrepute;
        3. [if the [Supplier] acts [persistently and materially][[34]](#footnote-35) in a manner that [is][reasonably justifies the [Customer]’s opinion that the [Supplier]’s business operations or other conduct are][[35]](#footnote-36) inconsistent with good environmental practice and policy;][[36]](#footnote-37) or
        4. if the [Supplier] fails within [30] Business Days to respond fully to a reasonable request for information made by the [Customer] to allow the [Customer] to assess the [Supplier]’s Carbon Footprint, environmental practices and policies that relate to the [Services]. The [Supplier] is only required to provide information under this paragraph if it has that information readily available at the time of the request, or it is required to keep that information under this document.
     2. [In this clause:

*Carbon Footprint* means a party’s total annual GHGs from all sources, categorised as scope 1, 2 and 3 emissions by The Greenhouse Gas Protocol: A Corporate Accounting and Reporting Standard, Revised Edition 2015.

*GHGs*means the natural and anthropogenic gases which trap thermal radiation in the earth’s atmosphere and are specified in Annex A to the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC) or otherwise specified by the UNFCCC at the date of this document.][[37]](#footnote-38)

### ***Clause 2 – emissions notification obligation (adapted from*** [***Sebastian’s Clause***](https://chancerylaneproject.org/climate-clauses/entire-business-net-zero-objectives/)***)***

Why you might use it

This clause can be used in any supply agreement. It requires the parties to measure their emissions and report on them in line with the climate reporting framework in the Financial Reporting Act 2013. It also requires parties to take steps to reduce their carbon footprint. This allows climate reporting entities under the climate reporting framework to impose a contractual obligation on counterparties to provide the emissions data for the purposes of making a climate disclosure. The clause also contains an option to provide the supplier with a gain-share payment where it exceeds its carbon footprint reduction targets each year.

The climate issue

A number of businesses in Aotearoa are required to report on their emissions under the climate reporting framework. Reporting on emissions allows companies to reduce their emissions and creates accountability to stakeholders.

The clause

1. **SUSTAINABILITY OBJECTIVES**
   * 1. [The [Supplier]][Each party][[38]](#footnote-39) must:
        1. regularly measure and report on its Carbon Footprint in accordance with the GHG Protocol and (where applicable) the Aotearoa New Zealand Climate Standards published by the External Reporting Board;
        2. [reduce [its Carbon Footprint][the Services Carbon Footprint][[39]](#footnote-40), as [originally][[40]](#footnote-41) assessed, by [●]% [within [●] months of the signing of this document][each year][year on year][[41]](#footnote-42), as reasonably demonstrated by Carbon Footprint Data;][[42]](#footnote-43)
        3. [establish a sustainability committee (comprising a committee of its [board of directors][management personnel]) to oversee the development, implementation and review of a Net Zero Target and prepare and execute an implementation plan to achieve that target;][[43]](#footnote-44)
        4. [develop and implement a plan of continuous improvement and quantifiable short-, medium- and long-term interim targets, approved by its board of directors, to reduce its Carbon Footprint by a minimum of [7]%[[44]](#footnote-45) per year and to provide a copy of that plan to the [Customer][other party];][[45]](#footnote-46)
        5. [achieve “carbon neutral” or similar certification under [*Insert approved offset providers, for example, from the list provided here: https://environment.govt.nz/what-government-is-doing/areas-of-work/climate-change/carbon-neutral-government-programme/measuring-and-reducing-your-emissions-through-the-cngp/suppliers-of-emissions-expertise-and-services/*] within [12] months of the start date of this document and afterwards maintain that certification during the term of this document;][[46]](#footnote-47)
        6. [report annually on the climate risks and opportunities to it and its business in accordance with the climate-related disclosure framework (as defined in section 9AA of the Financial Reporting Act 2013);][[47]](#footnote-48) and
        7. use reasonable endeavours to include contractual clauses (for example, climate clauses published by The Chancery Lane Project (as adapted for use in Aotearoa New Zealand)) in contracts it signs to embed Carbon Footprint reductions in its activities and relationships.
     2. [Where the [Supplier] reduces [its Carbon Footprint][the Services Carbon Footprint][[48]](#footnote-49) by an amount (the *Actual Reduction Amount*) more than the amount stated in paragraph (a)(ii) above in any one [year][[49]](#footnote-50) (the *Target Reduction Amount*), the following gain-share mechanism will apply (*Gain-Share Mechanism*):
        1. the maximum cumulative value of any Gain-Share Payment(s) due to the [Supplier] in any year will be equal to [●]% of the value of the [Services][[50]](#footnote-51) provided by the Supplier in respect of that same year;
        2. the Gain-Share Payment will only become due for payment after verification of the Actual Reduction Amount by an external auditor or reputable carbon footprint verification provider; [and][[51]](#footnote-52)
        3. the [Supplier] will invoice for any Gain-Share Payment after it has become due for payment and, in the absence of any dispute about the level of the Gain-Share Payment, it must be paid by the [Purchaser] as if it were part of the payment for the [Services][[52]](#footnote-53)[; and
        4. the [Supplier] will use reasonable endeavours to invest at least [●]% of any Gain-Share Payment(s) received by the [Supplier] into sustainability initiatives. The [Purchaser] reserves the right to ask the [Supplier] for evidence that it is complying with this requirement][[53]](#footnote-54).][[54]](#footnote-55)
     3. [In this clause:

*Carbon Footprint* means the total annual GHG Emissions of a party, expressed as a carbon dioxide equivalent measured in tonnes.

*Carbon Footprint Data* means the full figures and details of the measurement and calculations carried out by a party in the assessment of its Carbon Footprint at any point in time.

[*Gain-Share Payment* means an amount calculated by using the formula (A – B) x C x 0.5,[[55]](#footnote-56) where:

A = the Actual Reduction Amount in a year (the *Calculation Year*), calculated as the [Supplier’s Carbon Footprint][Services Carbon Footprint] in the year immediately preceding the Calculation Year minus the [Supplier’s Carbon Footprint][Services Carbon Footprint] in the the Calculation Year (the *Base Year*)

B = the Target Reduction Amount in the Calculation Year, calculated as a reduction of the the [Supplier’s Carbon Footprint][Services Carbon Footprint] in the Base Year by [●]%[[56]](#footnote-57)

C = the market rate in Aotearoa New Zealand to offset 1 tonne of CO2e at or about 10:30am on the last business day of the Calculation Year, as determined by the [Purchaser][Supplier] (acting reasonably).][[57]](#footnote-58)

*GHG Emissions* means emissions of GHGs from all sources, categorised as scope 1, 2 and 3 emissions by the GHG Protocol.

*GHG Protocol* means The Greenhouse Gas Protocol: A Corporate Accounting and Reporting Standard, Revised Edition 2015.

*GHGs*means the natural and anthropogenic gases which trap thermal radiation in the earth’s atmosphere and are specified in Annex A to the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC) or otherwise specified by the UNFCCC at the date of this document.

[*Net Zero Target* means a target to achieve, by 2050, a balance between emissions and removals of greenhouse gases aligned with the goals of the Climate Change Response (Zero Carbon) Amendment Act 2019).][[58]](#footnote-59)

*Services Carbon Footprint* means the total GHG Emissions [of the [Supplier]][[59]](#footnote-60) that arise as a result of the provision of the Services over the whole life of the [Services][[60]](#footnote-61), and when used in relation to a period, means the Services Carbon Footprint for that period.][[61]](#footnote-62)

## **Property clause**

### ***Clause 1 – green lease (adapted from an extract of*** [***Emma’s Clause***](https://chancerylaneproject.org/climate-clauses/green-residential-lease/)***)***

Why you might use it

This clause can be used in any commercial lease agreement. It requires the parties to understand the environmental performance of the building, to improve that performance, and to use the building in a way that is more environmentally friendly.

The climate issue

Buildings can create significant emissions through their use, and older building stock in particular can offer the opportunity for improved environmental performance. The way that landlords and tenants provide and use services to a building can also create emissions (for example, through the choice of electricity for the building and the amount of energy consumed and wasted generated in the building).

The clause

1. **ENVIRONMENTAL OBLIGATIONS**
   * 1. [The parties must, within [12] months of [the date of this document] [jointly] commission an independent review and report of the Environmental Performance of the Premises (*Environmental Performance Report*) determining a baseline measure of Environmental Performance (the *Baseline Environmental Performance*). The cost of the review [will be borne by the [Landlord][Tenant][[62]](#footnote-63)][shared equally between the parties][[63]](#footnote-64).][[64]](#footnote-65) [In addition to determining the Baseline Environmental Performance, the Environmental Performance Report must identify the Environmental Performance Factors contributing to the Baseline Environmental Performance that:
        1. are fixed and unable be improved through the actions of the parties during the term of the Lease [other than through [capital expenditure][the investment of in excess of $[●] over the term of the Lease] by either party][[65]](#footnote-66);
        2. may be improved through the actions of the Landlord (*Landlord Factors*); and
        3. may be improved through the actions of the Tenant (*Tenant Factors*).]

Select relevant option

* + 1. [If the Premises does not meet the Baseline Environmental Performance, the [parties][Tenant][Landlord][[66]](#footnote-67) must, within [a reasonable time] agree on a workplan to undertake the necessary works to ensure the Premises meets the Baseline Environmental Performance.][[67]](#footnote-68)

*OR*

* + 1. [On receipt of the Environmental Performance Report:
       1. the Tenant must use reasonable endeavours to improve the Environmental Performance of the Tenant’s Factors; and
       2. the Landlord must use reasonable endeavours to improve the Environmental Performance of the Landlord’s Factors, with a view to improving the Baseline Environmental Performance of the Premises over the term of the Lease.
    2. The Tenant and the Landlord will meet [annually][[68]](#footnote-69) to discuss the steps that each party:
       1. has taken to date to improve the Landlord’s Factors and the Tenant’s Factors (as the case may be) and the overall impact of those steps on the Baseline Environmental Performance; and
       2. proposes to take over the next [12] months to further improve the Baseline Environmental Performance.
    3. The Tenant and Landlord must not do anything that decreases or adversely affects the Baseline Environmental Performance of the Premises.][[69]](#footnote-70)
    4. The parties must use reasonable endeavours not to do anything which adversely affects the Baseline Environmental Performance.
    5. The [parties][Tenant][Landlord][[70]](#footnote-71) must:
       1. at the cost of the [other party][Landlord][Tenant][[71]](#footnote-72), provide to the [other party][Landlord][Tenant] all information held by the [relevant party][Tenant][Landlord], assistance, access (provided in accordance with clause [●][[72]](#footnote-73) of [this document]) to the Premises and other facilities reasonably requested by the [other party][Landlord][Tenant]; and
       2. provide reasonable cooperation (to the extent reasonably requested by the [other party][Landlord][Tenant]) in relation to any initiative reasonably requested by the [other party][Landlord][Tenant], in connection with the Environmental Performance or sustainability characteristics of the Premises.
    6. The [parties][Tenant][Landlord][[73]](#footnote-74) must use reasonable endeavours to:
       1. minimise energy consumption and waste and to recycle waste generated at the Property[; and
       2. ensure that the electricity consumed at the Premises is purchased from electricity retailers certifying, or holding themselves out, that they provide electricity from 100% renewable sources, or electricity that is otherwise ‘carbon neutral’][[74]](#footnote-75).
    7. [In this clause:

[*Baseline Environmental Performance* means the baseline measure for the Environmental Performance of the Premises is attached as [Schedule [X]].]][[75]](#footnote-76)

[*Environmental Performance* means an assessment of the impact that the Premises has on its surrounding environment, having regard to the Environmental Factors.

*Environmental Factors* means all or any of the following in relation to the Premises:

* + - 1. energy consumption;
      2. water consumption and discharge;
      3. waste generation and management; and/or
      4. generation and/or emission of GHGs.][[76]](#footnote-77)

*GHGs*means the natural and anthropogenic gases which trap thermal radiation in the earth’s atmosphere and are specified in Annex A to the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC) or otherwise specified by the UNFCCC at the date of this document.][[77]](#footnote-78)

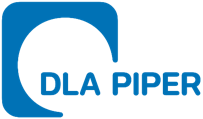
**Appendix**

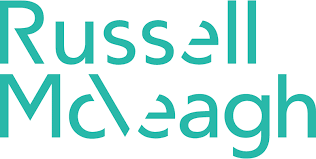
The following firms contributed to the development of these clauses:



Logo - Bell Gully - New Zealand Bankers' Association

A logo for a company

Description automatically generated

Lane Neave lawyers | New Zealand law firm



1. Drafting note: If boilerplate clause 2 (electronic notices) is included in the relevant document, this subparagraph can be deleted. [↑](#footnote-ref-2)
2. **Drafting note**: The second option using a non-defined term makes this clause less prescriptive and, therefore, more accessible to less sophisticated counterparties. Where it is selected, the appropriate options should be used throughout this clause. [↑](#footnote-ref-3)
3. **Drafting note**: This language can be added where the parties are not already measuring their GHG emissions (and so are more likely to need to do so on a one-off basis). This could be useful for less sophisticated counterparties. [↑](#footnote-ref-4)
4. **Drafting note**: This option places responsibility for the offsets of advisers on the advisers themselves, encouraging them to be conscious of their own emissions. [↑](#footnote-ref-5)
5. **Drafting note**: This option places responsibility for the offsets of advisers on the dispute parties, so is a simpler alternative. [↑](#footnote-ref-6)
6. **Drafting note**: Delete if lowercase “greenhouse gas emissions” term is used in this clause. [↑](#footnote-ref-7)
7. **Drafting note**: Consider moving some or all of these definitions to the interpretation section, particularly if other TCLP clauses are used in the document that draw on them. [↑](#footnote-ref-8)
8. **Drafting note**: The second option can be used where the parties want to include an additional qualifier (where “to the extent practicable” alone might impose a standard they do not consider they can meet). [↑](#footnote-ref-9)
9. **Drafting note**: If this clause is being used in a document that contains other TCLP clauses, this could be replaced with the defined term “GHG Emissions”. [↑](#footnote-ref-10)
10. **Drafting note**: If this clause is being used in a document that contains other TCLP clauses, this could be replaced with the defined term “GHG Emissions”. [↑](#footnote-ref-11)
11. **Drafting note**: Insert the first option if there is a clause in the relevant document requiring the business of the company to be conducted to minimise GHG emissions (like clause 2 or clause 3), which reinforces the intention of the shareholders to reduce emissions. [↑](#footnote-ref-12)
12. **Drafting note**: Consider what percentage is appropriate here. This will depend on how important face-to-face board interactions are for the company. [↑](#footnote-ref-13)
13. **Drafting note**: Select option as appropriate depending on whether a set threshold or general preference for electronic meetings is preferred. [↑](#footnote-ref-14)
14. **Drafting note**: This option is a less prescriptive formulation of the carbon neutral plan. [↑](#footnote-ref-15)
15. **Drafting note**: This option is more prescriptive and includes alignment with the national Emissions Reduction Plan. [↑](#footnote-ref-16)
16. **Drafting note**: This option can be included to significantly increase the effectiveness of the clause because failure to undertake the require offsetting will prevent a shareholder voting their shares. [↑](#footnote-ref-17)
17. **Drafting note**: Insert reference to the pre-emptive rights clause in the document in which this clause sits. [↑](#footnote-ref-18)
18. **Drafting note**: Insert reference to the drag-along rights clause in the document in which this clause sits. [↑](#footnote-ref-19)
19. **Drafting note**: Insert reference to the tag-along rights clause in the document in which this clause sits. [↑](#footnote-ref-20)
20. **Drafting note**: Insert reference to the sale clause in the document in which this clause sits and update the defined term for a sale notice if required. [↑](#footnote-ref-21)
21. **Drafting note**: This option should be used where the shareholders should primarily be responsible for offsetting (rather than the company) but the shareholders’ agreement does not include all shareholders in the company (because it requires the company to offset residual emissions). Obligations to offset emissions are placed on the shareholders and there are consequences for the shareholders of failing to comply, making it more impactful and onerous. If using this option, consideration needs to be given as to whether it works with the nature of the shares on issue (for example, this structure may not work with preference shares). [↑](#footnote-ref-22)
22. **Drafting note**: This option should be used where the company should be responsible for offsetting (rather than the shareholders). It is the simplest option so is generally preferrable. [↑](#footnote-ref-23)
23. **Drafting note**: This option should be used where the shareholders should be responsible for offsetting (rather than the company) and the shareholders’ agreement includes all shareholders in the company. Obligations to offset emissions are placed on the shareholders and there are consequences for the shareholders of failing to comply, making it more impactful and onerous. If using this option, consideration needs to be given as to whether it works with the nature of the shares on issue (for example, this structure may not work with preference shares). [↑](#footnote-ref-24)
24. **Drafting note**: Insert reference to the pre-emptive rights clause in the document in which this clause sits. [↑](#footnote-ref-25)
25. **Drafting note**: Insert reference to the drag-along rights clause in the document in which this clause sits. [↑](#footnote-ref-26)
26. **Drafting note**: Insert reference to the tag-along rights clause in the document in which this clause sits. [↑](#footnote-ref-27)
27. **Drafting note**: Insert reference to the sale clause in the document in which this clause sits and update the defined term for a sale notice if required. [↑](#footnote-ref-28)
28. **Drafting note**: This option should be used where the company should be responsible for offsetting (rather than the shareholders). [↑](#footnote-ref-29)
29. **Drafting note**: Including this wording increases the impact of this clause by ensuring that there is additional offsetting of emissions undertaken by shareholders even when the company is carbon neutral itself. [↑](#footnote-ref-30)
30. **Drafting note**: Consider moving some or all of these definitions to the interpretation section, particularly if other TCLP clauses are used in the document that draw on them. [↑](#footnote-ref-31)
31. **Drafting note**: Insert reference to the carbon footprint management clause. [↑](#footnote-ref-32)
32. **Drafting note**: Insert this language if the customer already has a methodology for calculating its carbon footprint. This language provides additional protection to the supplier. [↑](#footnote-ref-33)
33. **Drafting note**: This option allows for the supplier to demonstrate that it can reduce emissions, not that it has to have done within the original period. It, therefore, encourages and incentivises the supplier to embark on an emissions reduction journey, rather than punish it for not having acted sooner. [↑](#footnote-ref-34)
34. **Drafting note**: Insert this language to provide supplier protection by requiring an ongoing course of bad conduct. [↑](#footnote-ref-35)
35. **Drafting note**: Choose option as relevant. The second option provides supplier protection by requiring reasonable justification by the customer. [↑](#footnote-ref-36)
36. **Drafting note**: Where this is included, consider incorporating a clear termination framework based on environmental performance by reference to things that matter to the customer. [↑](#footnote-ref-37)
37. **Drafting note**: Consider moving some or all of these definitions to the interpretation section, particularly if other TCLP clauses are used in the document that draw on them. [↑](#footnote-ref-38)
38. **Drafting note**: Insert option as relevant, depending on whether this clause is mutual or one-way. [↑](#footnote-ref-39)
39. **Drafting note**: Select relevant option depending on whether the entire carbon footprint of a party needs to be reduced, or just the footprint relating to the services. The services option only works where this clause applies to the supplier only. [↑](#footnote-ref-40)
40. **Drafting note**: Delete this word if an enduring carbon footprint reduction is required. If a gain-share mechanism is incorporated in this clause, this should be deleted. [↑](#footnote-ref-41)
41. **Drafting note**: Select relevant option depending on whether a one-off or enduring carbon footprint reduction is required. Where a gain-share mechanism is incorporated in this clause, select “year on year”. [↑](#footnote-ref-42)
42. **Drafting note**: Insert if there is an expectation of a reduction in a party’s carbon footprint. [↑](#footnote-ref-43)
43. **Drafting note**: Insert to impose a requirement to establish a net zero goal and a sustainability committee to oversee it. [↑](#footnote-ref-44)
44. **Drafting note**: A 7% year on year reduction is what is required to halve emissions every decade. [↑](#footnote-ref-45)
45. **Drafting note**: Insert to impose a specific emissions reduction target (as an alternative to a net zero plan under paragraph (iii)). [↑](#footnote-ref-46)
46. **Drafting note**: Insert if carbon neutral certification is required. [↑](#footnote-ref-47)
47. **Drafting note**: Insert if reporting of climate risks is required, for example, to assist a party subject to TCFD reporting to obtain relevant information, or to acknowledge the existence of a mandatory TCFD reporting obligation. [↑](#footnote-ref-48)
48. **Drafting note**: Select relevant option depending on whether the entire carbon footprint of a party needs to be reduced, or just the footprint relating to the services. The services option only works where this clause applies to the supplier only. [↑](#footnote-ref-49)
49. **Drafting note**: Alternatively, a “contract year” concept could be used here. [↑](#footnote-ref-50)
50. **Drafting note**: Insert defined term for the product/service provided by the supplier. [↑](#footnote-ref-51)
51. **Drafting note**: Consider whether the supply agreement already contains adequate information undertakings, good faith/co-operation provisions and dispute resolution provisions. If not, consider specifically including these in respect of calculating and auditing the Gain-Share Payment. [↑](#footnote-ref-52)
52. **Drafting note**: The GST treatment of the gain-share payment should be considered. [↑](#footnote-ref-53)
53. **Drafting note**: Insert if there is an expectation that the supplier should use the gain share payment to continue to make sustainability improvements. [↑](#footnote-ref-54)
54. **Drafting note**: Insert to create a gain-share mechanism to further incentivise the supplier to reduce their carbon footprint (and reward them for doing so). The gain-share mechanism in this clause rewards a supplier for emissions reductions above a target in any year. An alternative formulation could be to use an averaging approach across a number of years if linear emissions reductions are not likely to be achieved. [↑](#footnote-ref-55)
55. **Drafting note**: This gain-share mechanism pays the supplier 50% of the cost of offsetting the emissions that the supplier avoided over the target amount during the year. In other words, the purchaser pays half of what it would have had to pay to offset its residual carbon footprint if the supplier had not made any excess carbon footprint reduction. [↑](#footnote-ref-56)
56. **Drafting note**: This percentage must be the same as used in paragraph (a)(ii). [↑](#footnote-ref-57)
57. **Drafting note**: Insert if the gain-share mechanism is included. [↑](#footnote-ref-58)
58. **Drafting note**: Insert if the option to impose a requirement to establish a net zero goal and a sustainability committee to oversee it has been included in this clause. [↑](#footnote-ref-59)
59. **Drafting note**: Consider defining the scope of applicable GHG Emissions in respect of the particular supply arrangement. [↑](#footnote-ref-60)
60. **Drafting note**: Insert defined term for the product/service provided by the supplier. [↑](#footnote-ref-61)
61. **Drafting note**: Consider moving some or all of these definitions to the interpretation section, particularly if other TCLP clauses are used in the document that draw on them. [↑](#footnote-ref-62)
62. **Drafting note**: Insert option as relevant depending on who should be subject to this clause. [↑](#footnote-ref-63)
63. **Drafting note**: Insert option as relevant depending on who should pay the cost of this assessment. [↑](#footnote-ref-64)
64. **Drafting note**: Delete if a baseline environmental performance has already been established. [↑](#footnote-ref-65)
65. **Drafting note**: Option to place limits on capital expenditure provided. Option may be adapted to cap (rather than exclude) capital expenditure if that is considered appropriate. [↑](#footnote-ref-66)
66. **Drafting note**: Insert option as relevant depending on who should be subject to this clause. [↑](#footnote-ref-67)
67. **Drafting note**: Insert to create a simpler clause that seeks to agree a plan to improve the environmental performance of the building. [↑](#footnote-ref-68)
68. **Drafting note**: Appropriate timeframe to be inserted. [↑](#footnote-ref-69)
69. **Drafting note**: Insert to create a more involved clause to improve the environmental performance of the building. [↑](#footnote-ref-70)
70. **Drafting note**: Insert option as relevant depending on who should be subject to this clause. [↑](#footnote-ref-71)
71. **Drafting note**: Insert option as relevant depending on who should be subject to this clause. [↑](#footnote-ref-72)
72. **Drafting note**: Insert access clause from the lease. [↑](#footnote-ref-73)
73. **Drafting note**: Insert option as relevant depending on who should be subject to this clause. [↑](#footnote-ref-74)
74. **Drafting note**: Insert if there is an expectation (and ability) to obtain certified carbonZero electricity. [↑](#footnote-ref-75)
75. **Drafting note**: Insert if a baseline environmental performance has already been established. [↑](#footnote-ref-76)
76. **Drafting note**: An alternative option for this clause is to remove this definition, deleted paragraph (a) and use “environmental performance” in paragraph (b), so that the clause is a softer statement of ambition around the greenness of the premises. [↑](#footnote-ref-77)
77. **Drafting note**: Consider moving some or all of these definitions to the interpretation section, particularly if other TCLP clauses are used in the document that draw on them. [↑](#footnote-ref-78)