

General Terms and Conditions

First Climate Markets AG



I. General Section

1. Scope of application

- 1.1. These General Terms and Conditions (hereinafter: GTC) shall apply to all services, offers and contracts of First Climate Markets AG, Friedberger Straße 173, 61118 Bad Vilbel (hereinafter: "First Climate").
- 1.2. These GTC shall apply exclusively to companies within the meaning of Section 14 German Civil Code (BGB), merchants acting as companies within the meaning of the German Commercial Code (HGB), legal entities under public law or special funds under public law (hereinafter: "Customer").
- 1.3. General terms and conditions of the customer or third parties shall not apply, even if First Climate does not separately object to their validity in individual cases. By way of exception, First Climate shall recognise deviating provisions of the customer if it expressly agrees to them in writing and in advance.

2. Offer and conclusion of contract

- 2.1. Offers from First Climate shall always be subject to change and non-binding, unless they are expressly labelled as binding or contain a specific acceptance period.
- 2.2. Orders or commissions on the part of the customer, as well as any and all unilateral contractual notifications and declarations, must be issued in text form, in order to be effective. First Climate shall be authorised to accept orders or commissions in the form of an order confirmation, or by rendering the respective service.
- 2.3. Unless expressly agreed otherwise, First Climate shall not provide advice to the customer or check the accuracy of the data transmitted by the customer beyond the respective contractual scope. If – in exceptional cases – First Climate provides advice or performs an assessment that stretches beyond the contractual scope, this shall be non-binding unless explicitly stipulated or agreed otherwise, and shall not release the customer from its obligation to perform its own assessment.
- 2.4. First Climate shall be authorised to use suitable third parties (subcontractors) for all (or part) of the services under this contract.

3. Provision of Services, Delivery and Service Deadlines, Duty to Cooperate

- 3.1. The scope and nature of the services to be rendered by First Climate shall be determined by the content of the respective contract, in particular, an offer submitted by First Climate.
- 3.2. Delivery and/or performance dates promised by First Climate shall only be approximate, unless a fixed date has been expressly agreed.
- 3.3. First Climate shall be entitled to make partial deliveries/services if (I) said partial delivery/service can be used by the customer within the scope of the contractually intended purpose, (II) the remaining delivery/service is thereby ensured and (III) the customer does not incur any significant additional expenditure or additional costs as a result thereof.
- 3.4. The customer's obligations to co-operate shall depend on the respective services to be rendered. The timely fulfilment of the obligations to co-operate shall be a prerequisite for compliance with binding delivery and/or service deadlines.

4. Terms of Payment and Invoicing

- 4.1. The price for the contractual service is set out in the order confirmed by First Climate, or the respective individual contract. The price shall not apply to subsequent orders placed by the customer.
- 4.2. All prices shall be stated net, plus the applicable value added tax.
- 4.3. Payments shall be due immediately. Invoices shall be due for payment within 10 calendar days of the invoice date. Payments shall be made without any deduction and free of charge for First Climate to the account of First Climate.
- 4.4. Should the customer default on payments deemed to be a considerable amount despite reminders, or if there are any pertinent circumstances that significantly impair the customer's creditworthiness, First Climate shall be entitled to render any further services only against advance payment or the provision of security.
- 4.5. Should the customer stipulate amended (or additional) requirements regarding the content or the items shown on the invoice after the invoice has been issued, First Climate shall be entitled to charge the customer EUR 250 for a corresponding change to the invoice.
- 4.6. The customer shall only be entitled to rights of set-off and retention if its counter-claims have been legally established, are undisputed or have been recognised by First Climate. Furthermore, the customer shall only be authorised to exercise any right of retention to the extent that his counter-claim is based on the same contractual relationship.

5. Warranty

- 5.1. First Climate shall accept no liability for public statements made by third parties (e.g. advertising statements) unless this has been expressly agreed between First Climate and the customer.
- 5.2. Any warranty borne by First Climate shall otherwise be governed by the special provisions and, in addition, by the pertinent statutory provisions.
- 5.3. The warranty period shall be one year from delivery and/or provision of the service.

6. Liability of First Climate

- 6.1. First Climate shall be liable for the breach of any contractual or statutory obligations without limitation (I) in the event of intent or gross negligence, (II) in the event of injury to life, limb or health, (III) in accordance with the provisions of the German Product Liability Act (Produkthaftungsgesetz) and (IV) in the event of any guarantees assumed by First Climate.
- 6.2. Otherwise, First Climate shall be liable in the event of simple (or slight) negligence only for the breach of material contractual obligations and also exclusively for damage that is typical of the contract in question and which was foreseeable for First Climate at the time the contract was concluded. Material contractual obligations are those obligations that protect the customer's legal positions, which are deemed material to the contract, and which the contract must grant to the customer in accordance with its content and purpose; material contractual obligations are also those obligations, the fulfilment of which is essential for the proper performance of the contract, and on compliance therewith the customer has regularly relied (and may rely).
- 6.3. Should First Climate provide technical information or act in an advisory capacity, and said advice is not part of the contractually agreed scope of services of First Climate, this shall be non-binding and free of charge. The customer's trust in the accuracy of the information is not protected.

- 6.4. First Climate shall bear no further liability.
- 6.5. The provisions of this clause shall apply to the same extent in favour of the executive bodies, legal representatives, employees and other vicarious agents of First Climate.

7. Statute of limitations

Any warranty and other liability claims of the customer shall lapse 12 months after the start of the statutory limitation period, unless First Climate, its legal representative or vicarious agent has fraudulently concealed a defect, has caused damage or a defect with wilful intent, or through gross negligence, or there has been injury to life, limb or health.

8. Force majeure

- 8.1. Delayed performance (or non-performance) with regard to the contract by First Climate shall not be deemed non-performance or a breach of duty if it is caused by unavoidable events, earthquakes, floods, forces of nature, fire, explosions, power failures, boycotts, pandemics, governmental restrictions, riots, terrorism, war or other military action, civic unrest, riots, vandalism, sabotage, absence of registers such as the EUTL (European Union Transaction Log) or register accounts or other circumstances beyond First Climate's reasonable control, and for which First Climate is not responsible (collectively, "Force Majeure"). First Climate shall inform the customer without delay of the occurrence of any Force Majeure event.
- 8.2. First Climate's obligations shall be suspended insofar as they are subject to the effects of a Force Majeure event. For the duration of the Force Majeure event, the agreed delivery and/or performance dates shall be postponed by the duration of the delay caused by said Force Majeure event.
- 8.3. Force Majeure events shall only entitle the parties to terminate the contract if a further waiting period can no longer be reasonably expected, but in any case after 3 months from the occurrence of the Force Majeure event. The assertion of further claims, in particular, for damages, shall not exist.

9. Intellectual property

First Climate shall remain the owner of the intellectual property rights to its services (copyrights and other industrial property rights, in particular, patent, design, utility and trademark rights). The legal ownership shall include, in particular, the entire know-how, software provided, information and marketing documents, logos etc.

10. Confidentiality

Each party shall be obligated to treat as confidential all information marked as "confidential" or information of the other party ("confidential information"), which is deemed to be confidential by nature, and not to make any copies of confidential information or make this information available to third parties unless this is necessary to fulfil obligations resulting from the contract. This obligation shall not apply to information which is publicly accessible, which has previously become known to the party in a lawful manner, which has arisen independently of this contract, or in the case of a legal or official or court order requiring the disclosing party to disclose or provide said information. The aforementioned obligations to maintain confidentiality shall apply indefinitely, including beyond the term of this contract, and must be imposed expressly and in writing on third parties, in particular, employees, who gain access to said confidential information.

11. Data protection

- 11.1. Each party must comply with the legal provisions on data protection and data security applicable to it, in particular, those of the EU General Data Protection Regulation (GDPR) and the German Federal Data Protection Act (BDSG).
- 11.2. The customer shall only transmit personal data to First Climate if the transmission and further processing are permitted under the applicable data protection laws. In particular, it will inform all data subjects of the transfer to and further processing by First Climate in accordance with the applicable provisions.

12. Self-Advertisement

For the purpose of self-advertisement, First Climate shall be entitled to refer in all media (websites, presentations, etc., online, offline) to its activities for the customer by abstractly summarising the services rendered under this contract, and by naming the customer and its logo, unless First Climate has been informed in writing of any conflicting confidentiality interests of the customer.

13. Applicable Law, Place of Jurisdiction, Miscellaneous

- 13.1. The law of the Federal Republic of Germany shall apply to the exclusion of the provisions of international private law. The provisions of the UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- 13.2. The customer may not transfer individual rights under this contract or the contract as a whole to third parties – subject to the assignment of monetary claims in accordance with Section 354 a German Commercial Code (HGB) – unless First Climate expressly consents to this in writing.
- 13.3. Any failure to exercise (or a delay in exercising) any contractual or statutory right or remedy shall not limit or constitute a waiver of such right or remedy or any other right or remedy. An isolated (or partial) exercising of a contractual or statutory right or remedy shall in no way limit the future exercising of said right or remedy or the exercising of any other right or remedy.
- 13.4. Furthermore, the Code of Conduct for business partners available at <https://www.firstclimate.com/rechtliches?lang=en> applies.
- 13.5. The place of fulfilment for all obligations arising from this contract shall be the registered office of First Climate. This shall also apply to the place of subsequent fulfilment, unless otherwise agreed.
- 13.6. The exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be the registered office of First Climate. First Climate shall also be entitled to bring a legal dispute at the statutory place of jurisdiction.
- 13.7. There shall be no verbal collateral agreements. Amendments, supplements or the cancellation of this contract – including the amendment of this provision itself – must be made in writing (excluding text form), unless a stricter form (e.g. notarisation) is required under mandatory law.
- 13.8. Should any provision of these GTC be or become void, invalid or unenforceable in whole or in part, the validity and enforceability of all other remaining provisions shall not be affected. Said void, invalid or unenforceable provision shall – to the extent permitted by law – be replaced by a valid and enforceable provision which comes closest to the economic purpose pursued by the void, invalid or unenforceable provision in terms of subject matter, measure, time, place

and scope, and which the parties can at least confirm by mutual agreement. The same shall apply to the closing of any loopholes in these GTC.

II. Special Section

1. General

- 1.1. This Special Part sets out additional conditions for the acquisition of Emission Reduction Certificates (ER) and Energy Attribute Certificates (EAC). The acquisition of ER and/or EAC can be done offline and online.
- 1.2. The provisions of this Special Section applicable to the respective service apply in addition to the provisions of the General Section.
- 1.3. Delivery dates are generally subject to the possibility of timely acquisition of the ER and/or EAC by First Climate.
- 1.4. The customer shall provide the information required for the transaction as well as the names of suitable contact persons.
- 1.5. The implementation of the climate projects or the operation of the plants for green electricity generation by the respective project/plant operators as well as the accuracy of information about projects/plants in documents including the information in brochures and the like, their respective certification and testing, registration and Issuance of certificates by Register are services provided by third parties for which First Climate assumes no liability, unless First Climate has acted intentionally or with gross negligence or has assumed any guarantees.

2. Emissions Reduction Certificates (ER)

- 2.1. The delivery of a certain amount of ER by First Climate to the customer shall take place upon the retirement of the ER in First Climate's registry account on behalf of the customer or on behalf of a company named by the customer. If the customer does not want First Climate to retire the ER but prefers to have it transferred to the customer's own registry account or a sub-account of First Climate's on behalf of the customer, the delivery will be considered complete when such a transfer has been completed.
- 2.2. After retirement, First Climate shall email the customer a document confirming the retirement of the ER in the registry.
- 2.3. Through the retirement, the ER are removed from the market for climate compensation. The ER shall remain in First Climate's holding. The customer shall not be entitled to receive the ER personally or to use them for any purpose other than for retirement.
- 2.4. Climate protection projects are checked by independent experts such as TÜV Rheinland, TÜV SÜD, SGS or Det Norske Veritas according to their high-quality standards. These tests are carried out by independent experts. First Climate is not responsible for the correctness of the information made available by the respective certification organization or the project operators, in particular their information in prospectuses regarding the emissions caused and the emission reductions achieved, or the occurrence of specifically verifiable amounts of emission reductions. An exception exists if First Climate assumed any guarantees or knew about the defect or was grossly negligent in not knowing about it.
- 2.5. First Climate warrants that it is entitled to sell and deliver the ER as provided in this Agreement and that upon delivery the ER are free from any right of lien or retention, security, encumbrances or impairments of law.

2.6. Additional Clauses for Offline Services

- 2.6.1. The ER come primarily from the project selected by the customer. If no specific project is selected by the customer, the project will be selected by First Climate. In the case that First Climate cannot acquire the desired amount of ER from the project specified in the individual contract on the market or such acquisition is possible but not reasonable, First Climate is entitled to acquire ER from qualitatively comparable projects for the customer. In this case, the customer will be informed about the selected replacement project. If First Climate cannot acquire the desired quantity of ER on the market from neither the project specified by the customer nor from a qualitatively comparable project, or such a purchase is possible but not reasonable, First Climate is entitled to withdraw from the contract without replacement.
- 2.6.2. In principle, the retirement takes place promptly after First Climate's acquisition of the ER. At the customer's request, the retirement can also take place at a defined later date.
- 2.6.3. First Climate shall invoice the ER after retirement. If, at the request of the customer, the retirement takes place at a later point in time or not at all, First Climate shall be entitled to invoice the ER to the customer at the time at which the contractual ER are located in the First Climate registry account or a transfer has taken place to the customer's registry account or to a First Climate subaccount.

2.7. Additional Clauses for Online Services

- 2.7.1. In the context of the online service, the customer can select one of the certified climate protection projects on offer, specify the desired amount of CO₂ emissions to be compensated and, by clicking on the "Order now" button, make a binding offer to First Climate.
- 2.7.2. The contract is concluded when the order is confirmed by First Climate.
- 2.7.3. First Climate shall procure and retire the ERs specified in the order process promptly and at the latest within two (2) months after payment being completed by the customer.
- 2.7.4. Beside that, the provisions for using the online service "my.FirstClimate" apply.
- 2.7.5. The customer is obliged to pay in advance. Payments are made in euros without any deduction.
- 2.7.6. The customer can choose from the following payment options: credit card (Visa, Master Card), PayPal, instant bank transfer or payment on account. Payment shall be due immediately, provided that the customer does not choose the payment on account option. In the case of payment on account, payment shall be due 14 days after receipt of the invoice from First Climate and is to be transferred to the account stated on the invoice. The relevant date of payment shall be the date the payment is credited to the account of First Climate.

3. Energy Attribute Certificates (EAC)

- 3.1. In principle, First Climate enables the customer to purchase EAC worldwide.
- 3.2. Due to country-specific regulations, First Climate is not entitled to retire the EAC in every country. Whether First Climate does the retirement or whether the EAC are retired elsewhere, e.g. by the Customer's energy supplier, is regulated in the respective individual contract.
- 3.3. When purchasing GoOs, the definitions and rules of the members of the Association of Issuing Bodies for the European Energy Certificate System defined in the actual Principles & Rules of Operation and in the actual EECS Rules of the relevant country of origin, including all Annexes, as amended from time to time, (the "EECS Rules") are incorporated into this Agreement.

- 3.4. When purchasing I-RECs, the definitions and provisions contained in the I-RECS Code and Supporting Documents, as amended from time to time, (the "I-REC-Code"), are incorporated into this Agreement.
- 3.5. RECs are the accepted legal instrument through which renewable energy generation and use claims are substantiated in the North American renewable electricity market. RECs are supported by several different levels of government, regional electricity transmission authorities, nongovernmental organizations (NGOs), and trade associations, as well as in U.S. case law. Multiple regional and national electronic REC tracking systems exist in the United States and Canada. Each registry issues uniquely identifiable certificates for each REC generated. The applicable rules for the selected RECs apply.
- 3.6. In the event that the Client wishes to purchase EACs other than those regulated in this Sections, the respective definitions and provisions of the respective national certificate systems and their accompanying documents as amended from time to time shall form an integral part of this Agreement (e.g. UK-REGO, J-Credit, etc.).
- 3.7. In the event that provisions of the contractual regulations deviate from the binding regulations of the respective national certificate system and their accompanying documents mentioned in this Section 3, the binding regulations of the respective national certificate system and their accompanying documents shall prevail.
- 3.8. If, between the conclusion and the execution of the contract, changes in the country-specific regulations occur and, as a result, it becomes impossible for First Climate to fulfil the respective contract in whole or in part (in particular, for example, it is no longer possible for First Climate to retire the EACs as agreed in the individual contract), First Climate will inform the customer accordingly. The parties will then jointly attempt to make an adjustment to the contract which takes into account the interests of both parties. If First Climate and the customer are unable to agree on an adjustment of the contract in accordance with the previous sentence, First Climate is entitled to terminate the respective contract. In this case, the customer shall have no claims, in particular no claims for damages.
- 3.9. In the case that First Climate cannot acquire the desired amount of EAC from the project specified in the individual contract on the market or such acquisition is possible but not reasonable, First Climate is entitled to acquire EAC from qualitatively comparable projects for the customer. This may be the case in particular due to a change in the law in the country of production or in the country of delivery and/or a change in the EECS rules or other relevant regulations. In this case, the customer will be informed about the selected replacement project.
- 3.10. If First Climate cannot acquire the desired quantity of EAC on the market from neither the project specified in the individual contract nor from a qualitatively comparable project, or such a purchase is possible but not reasonable, First Climate is entitled to withdraw from the contract without replacement.

3.11. Additional Clauses for Offline Services

The EAC come primarily from the project selected by the customer and noted in the individual contract. If no specific project is noted in the individual contract, the project will be selected by First Climate.

3.12. Additional Clauses for Online Services

- 3.12.1. In the context of the online service, the customer can select certain criteria for EACs, specify the desired amount of megawatt hours and, by clicking on the "Enquire now" button, send an enquiry to First Climate.

- 3.12.2. On the basis of the enquiry First Climate shall make a non-binding offer to the customer.
- 3.12.3. If the customer accepts the non-binding offer from First Climate by placement of an order, the contract is concluded when the order is confirmed by First Climate.
- 3.12.4. The further details of the services of First Climate shall be determined by the content of the contract entered into with the customer via the online service.
- 3.12.5. Otherwise, the provisions for using the online service “my.FirstClimate” apply.
- 3.12.6. The customer is obliged to pay in advance. Payments are made in euros without any deduction.
- 3.12.7. The customer can choose from the following payment options: credit card (Visa, Master Card), PayPal, instant bank transfer or payment on account. Payment shall be due immediately, provided that the customer does not chose the payment on account option. In the case of payment on account, payment shall be due 14 days after receipt of the invoice from First Climate and is to be transferred to the account stated on the invoice. The relevant date of payment shall be the date the payment is credited to the account of First Climate.

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