

# General Terms and Conditions (GTC) of Foundation myclimate - The Climate Protection Partnership

Version: January, 2023

## A. SCOPE

### 1. General

- 1.1. myclimate - The Climate Protection Partnership ("**myclimate**"), a Swiss foundation, is engaged worldwide in effective climate protection through consulting services, education and climate protection projects. myclimate pursues this goal as a non-profit organisation that relies on current science and market mechanisms.
- 1.2. myclimate works in the following areas in particular:
  - a) Climate protection projects
  - b) Sustainability consulting
  - c) Climate education
  - d) Project development
- 1.3. Wherever myclimate provides services, myclimate will conclude an individual contract with the client regarding the services and the specific terms and conditions for the services (the **SERVICE CONTRACT**). Section B hereof shall apply in particular.
- 1.4. Projects or activities in the fields of climate protection and climate education that are financed by DONATIONS or climate protection contributions are regulated in an agreement on the use of the DONATIONS or climate protection contributions (the AGREEMENT). The provisions in Section C of these GTC shall apply, in particular.
- 1.5. These GTC apply to all services provided by myclimate and all donations. Any and all services provided by myclimate - including additional services - are provided solely on the basis of these GTC. By concluding the service contract or donation agreement, the client consents to the GTC of myclimate.
- 1.6. The service contract and/or the donation agreement take precedence over these GTC in cases of conflicts wherever there is clear proof of the substance of the conflict (including, without limitation, written form). These GTC apply supplementarily to the service contract and/or donation agreement. Conflicting general terms and conditions of the client and/or donor will not be recognised unless myclimate expressly accepts them in writing.

## B. SERVICE CONTRACT

### 2. Formation of Contract

- 2.1. The SERVICE CONTRACT is not formed until both parties have signed the written SERVICE CONTRACT that has been individually agreed with the client.

### 3. Payments

- 3.1. Services that myclimate provides under the SERVICE CONTRACT shall be compensated on the basis of the pre-tax terms stipulated therein. These services are subject to value-added tax unless a specific service is exempt from value-added tax (such as, without limitation, education services and service exports). Value-added tax is added to the pre-tax price of all services subject to value-added tax, using the applicable rate in each case and subject to amendments and adjustments in value-added tax law.
- 3.2. Unless otherwise agreed in the SERVICE CONTRACT, invoices shall become due and payable 30 calendar days after invoicing. Payment shall be made to the account specified on the invoice without deductions in the currency

shown. Any and all banking fees associated with the payment must be borne by the client and must not lower the total invoiced amount.

3.3. If the client misses the agreed payment deadline, he will be in default from the due date without requiring a reminder and will owe myclimate late payment interest of 5 % p.a. myclimate expressly reserves the right to claim damages.

#### **4. Client Data**

4.1. The client grants myclimate access as needed to client-specific data and/or knowledge holders of relevance to the provision of the service.

4.2. The client represents and warrants to myclimate that the transmitted data is accurate and complete. MYCLIMATE assumes no liability for defects or consequential damage to the client if the service provided by MYCLIMATE is based on incorrect, erroneous or incomplete data from the client.

4.3. myclimate uses and treats the data and information received from the client confidentially in accordance with the provisions hereof (including, without limitation, section 17). myclimate may, however, use data in a processed or derived form, which may also be based on client data, for statistical, scientific or advertising purposes. If such data is published, myclimate will anonymise the client name or first obtain the client's express consent to the publication of his name.

#### **5. Reports**

5.1. Reports or scientific analyses and other services that MYCLIMATE undertakes in accordance with the SERVICE CONTRACT may only be used by the client for the purposes specified in the SERVICE CONTRACT.

5.2. myclimate retains any and all copyrights in the reports created by myclimate unless the service contract expressly transfers the copyrights to the client.

5.3. Data and calculations that are passed to the customer by myclimate are also covered by the confidentiality.

#### **6. IT Services and IT Tools**

6.1. myclimate uses various software solutions (the IT tools) when providing services for clients. myclimate configures the IT tools according to the client's specifications and/or adapts the IT tools to the client's system and maintains the IT tools pursuant to the service contract.

6.2. The service contract governs licensing, purpose and usage fees for IT tools. Forecoinvent background data made available on MYCLIMATE IT-TOOLS, the "Terms of Use for Users of myclimate Software Applications Usingecoinvent Data" also apply.

6.3. The IT tools made available by myclimate shall be used exclusively for the purposes stipulated in the service contract. myclimate disclaims any and all liability if the IT tools are used for other purposes.

6.4. myclimate strives to offer uninterrupted services and operates according to the best-effort principle. myclimate disclaims any and all liability if the IT tools are temporarily unavailable.

#### **7. Seminars and Educational Materials**

7.1. myclimate provides numerous seminars, classes and further education programmes on climate issues. A scheduled educational event will only be held if enrolment reaches the number stipulated in the service contract. myclimate will give the client a firm commitment on whether the event will be held no later than three days before the scheduled event date.

7.2. myclimate reserves the right to charge an administrative fee equal to the costs incurred by myclimate to prepare an agreed, scheduled educational event if the client cancels the educational event and/or if the educational event is not held because the agreed minimum enrolment threshold was not met.

7.3. myclimate provides educational materials for certain educational projects. Depending on the terms of the individual agreement, myclimate will either invoice the educational materials separately or provide them free of charge as part of the educational project.

## **C. DONATION AGREEMENT**

### **8. Formation of Contract**

8.1. The donation agreement is not formed until both parties have signed the written donation agreement that has been individually agreed with the client. The foregoing does not, however, apply to the conclusion of a donation agreement through a CO<sub>2</sub> calculator on the myclimate websites. In the latter case, the contract is formed by the completion and submission of the online form. The completion and submission of the online form constitutes a binding declaration of intent to make a donation to myclimate.

### **9. Donations**

9.1. Insofar as they are earmarked for the realisation of climate protection projects and for the implementation of climate education projects, general donations, benefactors' contributions and climate protection contributions from private individuals or companies are considered donations for income and profit tax purposes (the DONATIONS).

9.2. Donations to myclimate are tax-deductible in all Swiss cantons. myclimate is recognised as a charitable organisation in Switzerland and can furnish clients who make donations in Switzerland with donation receipts recognised by the competent Swiss tax authorities, subject to amendments in tax law.

9.3. Unless otherwise agreed in the donation agreement, invoices shall become due and payable 30 calendar days after invoicing. Payment shall be made to the account specified on the invoice without deductions in the currency shown.

### **10. Climate protection contribution**

10.1. MYCLIMATE enables both companies and private individuals to determine their greenhouse gas emissions and to finance the realisation of MYCLIMATE climate protection projects and the achievement of a concrete number of emission reductions or emission removals through DONATIONS (climate protection contribution). The MYCLIMATE climate protection projects reduce greenhouse gas emissions or achieve greenhouse gas removals directly at the source by replacing energy sources that impact the climate with clean ones, avoiding methane emissions or creating or revitalising natural sinks such as trees or wetlands. In particular, projects in the fields of renewable energies, energy efficiency, avoidance of methane emissions and renaturation are supported.

10.2. Subject to special provisions in the respective AGREEMENT, MYCLIMATE undertakes to express all climate protection contributions in CO<sub>2</sub>-ton-equivalent (tCO<sub>2</sub>e) and to assign them to specific climate protection projects. MYCLIMATE ensures that every financed tCO<sub>2</sub>e is verified and, if an external project standard is used, certified by an independent third party. MYCLIMATE further warrants that all contractually agreed emission reductions and removals are recorded in internationally recognised, public registers if such are offered by the project standard used, or alternatively in an internal register if no such register exists. Any allocation and quiescence for the client shall be noted in the register by MYCLIMATE.

10.3. Subject to deviating provisions in AGREEMENTS made with companies and with the exception of projects in the area of land use and forests according to 10.3.1, MYCLIMATE undertakes to ensure that the corresponding emission reductions are achieved no later than three years after receipt of a climate protection contribution, and, if necessary according to 10.2, certified and/or verified and quiesced for the client within the same period. The three-year period is calculated from the year in which the payment was received to the end of the calendar year in the third subsequent year.

10.3.1 Subject to deviating provisions in AGREEMENTS made with companies, MYCLIMATE undertakes to ensure that, in projects in the land use and forest sector, the corresponding emission reductions and removals have been reserved for the client no later than three years after receipt of a climate protection contribution and the measures that lead to such emission reductions and removals are carried out within this period. The removals shall take place over the period of the sink effect, according to the project documentation and/or the standard applied.

10.3.2 In the event of an unforeseen delay, the foreseeable under-generation or the foreseeable lack of generation of emission reductions and removals in the selected MYCLIMATE climate protection projects, and unless otherwise agreed with the client, MYCLIMATE guarantees the realisation of the climate protection contribution:

- a) through emission reductions and removals in the selected climate protection project from a later verification period, or a different quiescence or reservation date (than provided for in 10.3.), or
- b) through emission reductions and removals of another climate protection project of the same project standard with the same quiescence or reservation date (as provided for in 10.3.), or
- c) through emission reductions and removals of another climate protection project of the same project standard with different quiescence or reservation dates (than provided for in 10.3.).

10.4. All certificates quiesced by MYCLIMATE represent a successful, concrete reduction calculated and verified according to the methods and rules of the contractually agreed project standard. If the agreement does not contain any special provisions, the client can make the relevant climate protection contribution public in accordance with Article 15 (below). The extent to which the client may designate the relevant climate protection contribution as “carbon offsetting” or “climate neutral” is determined by the rules of the respective project standard and the general legal provisions. MYCLIMATE does not guarantee whether or to what extent the certificates are mapped in national accounting systems or the suitability of the certificates for offsetting purposes. This also applies if the certificates originate from projects for which the country of origin issued a letter of authorisation in accordance with the principles laid down in Article 6 of the Paris Agreement or for its implementation and announced a “corresponding adjustment” therein. MYCLIMATE is only responsible here insofar as the certificates issued to the client originate from the project in question and have been verified. Whether and to what extent the country of origin undertakes the corresponding adjustment in question is outside MYCLIMATE’s area of responsibility. The client cannot refuse acceptance of the respective certificates with reference to any potential lack of a corresponding adjustment. MYCLIMATE can demand that the client refrain from the use of the designation “carbon offsetting”, “climate neutral” or the use of a similar term if there is reason to believe that the designation is inadmissible and/or misleading according to the rules of the project standard or legal provisions.

10.5. If the client measures the donation contribution according to the amount of their own greenhouse gas emissions, MYCLIMATE points out that the determination of the greenhouse gas emissions is based solely on the data provided by the donor. In particular, MYCLIMATE is not responsible for incorrect, erroneous or incomplete donor data or for calculation errors that arise due to incorrect, erroneous or incomplete donor data.

## **11. Climate Education Projects**

11.1. myclimate carries out various awareness projects in climate education for various age and target groups.

11.2. Companies, foundations and private individuals support these myclimate projects through donations. myclimate uses the donations in accordance with the purpose set out in the donation agreement.

11.3. Public institutions support myclimate climate education projects through contributions that are classified as subsidies for value-added tax law purposes. myclimate uses these contributions in accordance with the purpose set out in the donation agreement.

## **D. GENERAL PROVISIONS**

### **12. Termination of Contracts**

12.1. Unless otherwise agreed in the service contract or donation agreement, both the client and myclimate may terminate the service contract or donation agreement for convenience without giving reasons as per the end of each calendar year by giving six months' prior notice, at the earliest one year after the agreement has been signed.

12.2. A service contract or donation agreement may be terminated for cause with immediate effect at any time without giving prior notice. Cause shall particularly be deemed to exist if, giving due consideration to the interests of both parties, it would be unreasonable to expect a continuation of the contractual relationship, for example, if:

- clients have not met their financial obligations after having been dunned twice;
- one party to the contract or agreement has become insolvent and/or files for bankruptcy or the bankruptcy has been rejected for lack of assets or
- the client's statements or actions conflict with the values and goals of myclimate or the client's conduct may damage myclimate's reputation.

12.3. The termination is only effective if made in written form and, unless otherwise agreed in the service contract or donation agreement, must be sent to the other party to the contract or agreement by registered letter. The client must send terminations to the following address:

**myclimate foundation - The Climate Protection Partnership**

Pfingstweidstrasse 10  
CH 8005 Zurich  
Switzerland

### **13. Liability**

13.1. Unless otherwise agreed in the service contract or donation agreement, myclimate shall be liable solely for damages arising as a direct result of the violation of material contractual obligations by myclimate and which myclimate (or its representatives or vicarious agents) has caused intentionally or through gross negligence.

13.2. myclimate disclaims any further liability. In particular, myclimate shall not be liable for damages due to factors beyond the control of myclimate, including, without limitation, fire, strikes, seizure, inclement weather, natural disasters, nuclear incidents, political unrest, war or terrorism, general shortage of raw materials, restrictions in the use of energy, failures of the technical infrastructure such as servers, communications facilities, internet or power supply for which myclimate is not at fault, et cetera. Nor shall myclimate be liable for damages caused by the fact that a partner or supplier of myclimate is affected by these circumstances and myclimate is unable to meet its contractual obligations as a result. In particular, MYCLIMATE is also not liable for damage, including damage to reputation, resulting from errors or omissions in a project standard, a certificate register, a host country or an independent verifier.

### **14. Information**

In an annual report, myclimate reports in detail each year on funds received, the use of funds and the carbon offset and climate education projects financed by these funds. The annual reports can be downloaded from [www.myclimate.org](http://www.myclimate.org). myclimate does not guarantee that any information made accessible by myclimate is free from errors or conforms to foreign law without any modifications.

### **15. Use of Labels, Names and Logos**

15.1. myclimate gives the client the right to make the contractual relationship with myclimate known to third parties and to use the client's support for myclimate carbon offset and climate education projects in the client's communications, including, without limitation, the client's website, annual report or official press releases, using the myclimate brand in accordance with the provisions of these GTC and the myclimate corporate design guidelines as they may change from time to time and are published on [www.myclimate.org](http://www.myclimate.org). The use of the myclimate brand requires the prior written consent of myclimate.

15.2. The use of a myclimate label requires a corresponding agreement in the service contract or donation agreement. When using the myclimate label, the client shall comply with the provisions hereof and with the myclimate corporate design guidelines as they may change from time to time and are published on [www.myclimate.org](http://www.myclimate.org).

15.3. The client shall make any and all changes to the myclimate brand and (if authorized by contract) myclimate label and any associated representations within one month of being notified by myclimate. The client must also update any and all marketing materials with the new myclimate brand and label at the client's own expense within six months of being notified in writing by myclimate.

15.4. The client grants myclimate a non-exclusive, non-transferrable right to use the client's name and logo for publication purposes. myclimate may name the client as a reference on its website or in other media unless the parties have agreed otherwise in a service contract or the donation agreement.

15.5. The right to use the myclimate brand or, where applicable, the myclimate label, ceases in any event in case of a continuing breach of the service contract or donation agreement, in case of a gross violation of obligations under these GTC, in case of damage to myclimate's reputation or if the client's statements or actions conflict with the values and goals of myclimate. Prior to revoking the right, myclimate may give the client a period of time to correct the misconduct.

15.6. Upon termination of the cooperation, the materials and rights (especially logos and labels) mutually provided under this agreement may no longer be used and must, where necessary, be returned. This does not include citing the cooperation for reference purposes.

## **16. Websites**

16.1. MYCLIMATE operates various websites for information purposes, to provide online CO2 calculators or for specific climate education projects (the WEBSITES). The IT tools are not considered to be websites even if they are provided on an online server.

16.2. myclimate accepts no liability for the content of the WEBSITES. Liability for damages of any kind arising from or in connection with access to, use of or consultation of the WEBSITES or use of the information retrievable from it is excluded in its entirety. Information and data on the WEBSITES are for information purposes only. In particular, no liability is assumed for the topicality, completeness and correctness of the contents. myclimate is not liable for any lack of accessibility of the WEBSITES or specific applications and functionalities of the WEBSITES.

16.3. myclimate is in particular not liable for the topicality, completeness, correctness and legality of information and statements of third parties, even if such information or statements are made accessible to users on a WEBSITE or social media platform operated by myclimate. myclimate is also not liable for links to third-party websites and the content of such websites.

16.4. Forecoinvent background data made available on myclimate WEBSITES, the "Terms of Use for Users of myclimate Software Applications Using ecoinvent Data" also apply.

16.5. Illegal or defamatory statements on the WEBSITES are not permitted and will be deleted immediately by myclimate. myclimate reserves the right to take legal action against offending users.

## **17. Data Protection**

17.1. Clients can generally use the WEBSITES without providing personal data. The servers of the WEBSITES merely register non-personal usage data.

17.2. Some services on the WEBSITES can only be used after personal data has been provided. myclimate handles users' personal data in accordance with the applicable data protection act. The users' personal data is used carefully and solely for the specified purposes. Personal data is only transmitted or made available to third parties with the user's prior consent. Users have the right and option to have data relating to them corrected or deleted at any time.

17.3. Functions provided by social media providers such as Facebook, Twitter, Google+ etc. may be integrated into the WEBSITES, which automatically transfer user-related data to the relevant third-party provider when the WEBSITE is accessed. If users are simultaneously logged in to the social media provider's platform, the visit to the WEBSITES may be associated with their social media account. myclimate cannot access or influence this data transfer.

17.4. Certain WEBSITES allow users to submit comments etc.; the information disclosed there is publicly available and can be put to further use by myclimate.

17.5. myclimate uses Google Analytics, a web analytics service provided by Google Inc. ("Google"). Google Analytics uses so-called "cookies", text files that are stored on your computer and that allow analysis of your use of the website. The information generated by the cookie about your use of this website (including your IP address) is transmitted to and stored by Google on servers in the United States. Google will use this information to evaluate your use of the website, to create reports on your website activities for the website operators and to provide further services connected with your use of the website and the Internet. Google may also transfer this information to third parties if this is required by law or if third parties process this data on behalf of Google. You can prevent the installation of cookies by setting your browser software accordingly; however, we would like to point out that in this case you may not be able to use all myclimate features in their entirety. By using this website, you consent to Google processing data regarding you in the manner and for the purposes set out above.

## **18. Contract Modifications**

18.1. Any and all side agreements, amendments and modifications to the service contracts and donation agreements must be made in written form to be valid.

18.2. MYCLIMATE may modify the GTC at any time. The current version is published on the homepage and/or sent to the client. The MYCLIMATE GTC published on the homepage or supplied on the date of the last signature (Effective date of contract) being added to a contract or offer shall apply to such contract or offer.

## **19. Effectiveness**

If any individual provisions of these General Terms and Conditions are ineffective, this shall not affect the effectiveness of the remaining provisions or the contracts concluded on the basis thereof. The ineffective provision shall be replaced by an effective provision that most closely approximates the intent and purpose of the original provision.

## **20. Applicable Law and Jurisdiction**

20.1. The GTC and (unless otherwise agreed) every service contract or donation agreement is governed by Swiss law to the exclusion of conflict of law rules.

20.2. Unless otherwise agreed in the service contract or donation agreement, the courts at the seat of the myclimate foundation (Zurich, Switzerland) shall have jurisdiction over any disputes arising under or in connection with the GTC or a service contract or donation agreement. myclimate may, however, assert its claims before other competent courts at a different location in Switzerland or abroad.

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