

## myclimate Deutschland gGmbH – General Terms and Conditions (GTC)

### A. SCOPE

#### 1 General

- 1.1 myclimate Deutschland gGmbH (following named as myclimate Deutschland) is a 100% subsidiary of the Swiss non-profit organisation myclimate – The Climate Protection Partnership, (following named as myclimate). myclimate Deutschland respectively myclimate are engaged in effective climate protection globally.
- 1.2 myclimate Deutschland works in the following areas in particular:
  - a) climate protection projects
  - b) sustainability consulting
  - c) climate education
- 1.3 Where myclimate Deutschland provides services, myclimate Deutschland will conclude a specific contract with the client regarding the services and the specific terms and conditions for these services (the **SERVICE CONTRACT**). Section B hereof shall apply in particular.
- 1.4 Climate protection and education projects or activities funded by donations are governed by an agreement on the use of the donations (the **DONATION AGREEMENT**). Section C hereof shall apply in particular.
- 1.5 These GTC apply to all services provided by myclimate Deutschland and all donations. Any and all services provided by myclimate Deutschland – including additional services – are provided exclusively on the basis of these GTC. By concluding the **SERVICE CONTRACT** or **DONATION AGREEMENT**, the client consents to the GTC of myclimate Deutschland.
- 1.6 The **SERVICE CONTRACT** and/or the **DONATION CONTRACT** 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 supplementary 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 Deutschland expressly accepts them in writing.

### B. SERVICE CONTRACT

#### 2 Services

- 2.1 Services which myclimate Deutschland 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.
- 2.2 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.
- 2.3 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 Deutschland late payment interest of 5% p.a. according to §288 Abs. 2 German Commercial Code (BGB). myclimate Deutschland expressly reserves the right to claim damages.

#### 3 Client data

- 3.1 The client grants myclimate Deutschland access as needed to client-specific data and/or knowledge holders of relevance to the provision of the service.
- 3.2 The client represents and warrants to myclimate Deutschland that the transmitted data are accurate and complete. myclimate Deutschland assumes no liability for consequential damages incurred by the client if the service provided by myclimate Deutschland is based on inaccurate, erroneous or incomplete client data.
- 3.3 myclimate Deutschland uses and treats the data and information received from the client confidentially in accordance with the provisions herof (including, without limitation, section 14). myclimate Deutschland 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 Deutschland will anonymise the client name or first obtain the client's express consent to the publication of his name.

#### 4 Reports

- 4.1 Reports [and/or scientific analyses etc.] that myclimate Deutschland creates in accordance with the **SERVICE CONTRACT** may only be used by the client for the purposes specified in the **SERVICE CONTRACT**.
- 4.2 myclimate Deutschland retains any and all copyrights in the reports created by myclimate Deutschland unless the **SERVICE CONTRACT** expressly transfers the copyrights to the client.

#### 5 IT-Services and IT-Tools

- 5.1 myclimate Deutschland uses various software solutions (the **IT-Tools**) when providing services for clients. myclimate Deutschland configures the IT-

TOOLS according to the client's specifications and/or adapts the IT-TOOLS to the clients' system and maintains the IT-TOOLS pursuant to the **SERVICE CONTRACT**.

- 5.2 The **SERVICE CONTRACT** governs licensing, purpose and usage fees for IT-TOOLS.
- 5.3 The IT-TOOLS made available by myclimate Deutschland shall be used exclusively for the purposes stipulated in the **SERVICE CONTRACT**. myclimate Deutschland disclaims any and all liability if the IT-TOOLS are used for other purposes.
- 5.4 myclimate Deutschland strives to offer uninterrupted services and operates according to the best-effort principle. myclimate Deutschland disclaims any and all liability if the IT-TOOLS are temporarily unavailable.

### C. DONATION AGREEMENT

#### 6. Donations

- 6.1 General donations, subsidies and CO<sub>2</sub> compensation payments from individuals or companies are deemed to be donations provided they are earmarked for the implementation of climate protection projects and climate education projects (the **DONATIONS**).
- 6.2 myclimate Deutschland is recognised as charitable organisation in Germany and can provide clients who make **DONATIONS** in Germany with donation receipts recognised by the competent German authorities, subject to amendments in tax law.
- 6.3 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.

#### 7. CO<sub>2</sub>-compensation

- 7.1 myclimate Deutschland gives both companies and private individuals the opportunity to determine their greenhouse gas emissions and compensate them through **DONATIONS** for implementing myclimate carbon compensation projects (CO<sub>2</sub>-compensation and/or CO<sub>2</sub>-compensation payments). myclimate carbon compensation projects reduce greenhouse gas emissions directly at the source by substituting air-polluting energy sources through clean energy sources. myclimate focusses on supporting projects related to renewable energy, energy efficiency and forestation.
- 7.2 myclimate Deutschland undertakes to use the CO<sub>2</sub>-compensation payments received from companies and private individuals to implement carbon compensation projects that aim to reduce emissions. A ratio of 80% of the **DONATIONS** is allocated to an earmarked fund and from there used for the projects.
- 7.3 Unless otherwise agreed in the **DONATION AGREEMENTS** made with companies, myclimate Deutschland undertakes to ensure that In projects based on renewable energy and energy efficiency:
  - a) the projects achieve the emission reductions associated with the CO<sub>2</sub> compensation payment within two years of receipt of this payment and
  - b) the emission reduction certificates associated with the CO<sub>2</sub> compensation payment are retired in an internationally recognised emissions trading registry no later than three years after receipt of this payment.

In projects related to land use and forestry:

- c) an issued CO<sub>2</sub> certificate contains a change in the land use system that leads to a carbon sink capacity of 1t / CO<sub>2</sub>eq. in accordance with the requirements of the applied standard and
  - d) all issued credits are registered in Markit, an internationally recognised emissions trading registry.
- 7.4 In case of an unforeseen delay in the selected myclimate carbon compensation project or if the selected project fails to achieve the emission reductions, myclimate Deutschland will, unless otherwise agreed with the client, ensure that CO<sub>2</sub> is compensated:
    - a) through emission reduction certificates in the selected carbon compensation project from a later vintage or
    - b) through emission reduction certificates of the same vintage and quality standard in another carbon compensation project or
    - c) through emission reduction certificates of the same quality standard from a later vintage in another carbon compensation project.
  - 7.5 myclimate Deutschland calculates CO<sub>2</sub>-compensation tonnages according to the latest available information. Although the calculation bases are regularly reviewed and revised, myclimate Deutschland disclaims any and all liability for their accuracy or timeliness.
  - 7.6 myclimate Deutschland calculates CO<sub>2</sub>-compensation exclusively on the basis of data provided by the donor and does not provide any additional CO<sub>2</sub>-compensation. In particular, myclimate Deutschland is not responsible for inaccurate, erroneous or incomplete donor data or for calculation errors resulting from inaccurate, erroneous or incomplete donor data.

## 8 Climate Education Projects

- 8.1 myclimate Deutschland carries out various capacity building projects in climate education for various age and target groups.
- 8.2 Companies, foundations and private individuals support these myclimate projects through DONATIONS. myclimate Deutschland uses the donations in accordance with the purpose set out in the DONATIONS AGREEMENT.
- 8.3 Public institutions support myclimate Deutschland climate education projects through contributions that are classified as subsidies for value-added tax law purposes. myclimate Deutschland uses these contributions in accordance with the purpose set out in the DONATION AGREEMENT.

### D. General provisions

## 9 Termination of Contracts

- 9.1 Unless otherwise agreed in the SERVICE CONTRACT OR DONATION AGREEMENT, both the client and myclimate Deutschland may terminate the SERVICE CONTRACT OR DONATION AGREEMENT for convenience without giving reasons as per the end of each calendar year by giving three months prior notice, at the earliest one year after the agreement has been signed.
- 9.2 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:
  - a) clients have not met their financial obligations after having been dunned twice
  - b) one party to the contract or agreement has become insolvent and/or after for bankruptcy or the bankruptcy has been rejected for lack of assets or
  - c) the client's statements or actions conflict with the values and goals of myclimate Deutschland and the client's conduct may damage myclimate Deutschland's reputation.
- 9.3 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 by registered letter. The client must send a termination notice to the following address:

myclimate Deutschland gmbH  
Borsigstr. 6  
72760 Reutlingen

## 10 Liability

- 10.1 Unless otherwise agreed in the SERVICE CONTRACT OR DONATION AGREEMENT, myclimate Deutschland shall be liable exclusively for damages arising as a direct result of the violation of material contractual obligations and which myclimate Deutschland (or its representatives or vicarious agents) has caused intentionally or through gross negligence.
- 10.2 myclimate Deutschland disclaims any further liability. In particular, myclimate Deutschland shall not be liable for damages due to factors beyond the control of myclimate Deutschland, 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 Deutschland is not at fault, et cetera. Nor shall myclimate Deutschland be liable for damages caused by the fact that a partner or supplier of myclimate Deutschland is affected by these circumstances and myclimate Deutschland is unable to meet its contractual obligations as a result.

## 11 Information

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

## 12 Use of Labels, Names and Logos

- 12.1 myclimate Deutschland guarantees that it is licensee of myclimate. myclimate Deutschland keeps the clients free from any potential licence claims from myclimate.
- 12.2 According to the specific stipulated content of the contract or agreement, myclimate Deutschland grants a non-exclusive, non-transferrable sub-licence to use myclimate's trademarks or trade names with regards to the production, sales and marketing of climate-neutral services and related products. The client accepts this sub-licence according to the specified provision.
- 12.3 myclimate Deutschland gives the client the right to make the contractual relationship with myclimate Deutschland known to third parties and to use

the client's support for myclimate carbon compensation and climate education projects in the client's communication, 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), unless the parties have agreed on a different usage in the SERVICE CONTRACT OR DONATION AGREEMENT. The use of the myclimate brand requires the prior written consent of myclimate Deutschland.

- 12.4 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).
- 12.5 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 Deutschland. 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 Deutschland.
- 12.6 The client grants myclimate Deutschland a non-exclusive, non-transferrable right to use the client's name and logo for publication purposes. myclimate Deutschland may name the client as a reference on its website or in other media unless the parties have agreed otherwise in the SERVICE CONTRACT OR DONATION AGREEMENT.
- 12.7 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 Deutschland's reputation or if the client's statements or actions conflict with the values and goals of myclimate Deutschland. Prior to revoking the right, myclimate Deutschland may give the client a period of time to correct the misconduct.
- 12.8 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.

## 13 Websites

- 13.1 myclimate Deutschland respectively myclimate operate various websites for informational purposes, to provide online CO<sub>2</sub>-compensation 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.
- 13.2 Information and data on the WEBSITES serve informational purposes only, without allowing the client to rely on their timeliness, accuracy or completeness. myclimate Deutschland shall not be liable if the WEBSITES or specific applications and functions of the WEBSITES are temporarily inaccessible.
- 13.3 myclimate Deutschland is only responsible for content on the WEBSITES if it created, published and disseminated the content itself. myclimate Deutschland is not liable for the accuracy and legality of third-party information and statements even if this information is made accessible to users on a WEBSITE or social media platform operated by myclimate Deutschland.
- 13.4 Illegal or defamatory statements on the WEBSITES are not permitted and will be deleted immediately by myclimate Deutschland. myclimate Deutschland reserves the right to take legal action against offending users.

## 14 Data Protection

- 14.1 Clients can generally use the WEBSITES without providing personal data. The servers of the WEBSITES merely register non-personal usage data.
- 14.2 Some services on the WEBSITES can only be used after personal data have been provided. myclimate Deutschland handles users' personal data in accordance with the applicable data protection act. The users' personal data are used carefully and solely for the specified purposes. Personal data are 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.
- 14.3 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 WEBSITE may be associated with their social media account. myclimate Deutschland cannot access or influence this data transfer.
- 14.4 Certain WEBSITES allow users to submit comments etc. The information disclosed there is publicly available and can be put to further use by myclimate Deutschland.

## **15 Contract Modifications**

- 15.1 Any and all side agreements, amendments and modifications to the SERVICE CONTRACTS and DONATION AGREEMENTS must be made in written form to be valid.
- 15.2 myclimate Deutschland may modify the GTC at any time. The current version is published on the homepage and/or sent to the client. Subsequent modifications of the GTC will become an integral part of the contract if the client does not object to them in writing within 30 days after the GTC have been published online and/or sent to the client.

## **16 Effectiveness / Severability Clause**

- 16.1 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.

## **17 Applicable Law and Jurisdiction**

The GTC and every SERVICE CONTRACT or DONATION AGREEMENT is governed by German law. The courts at the seat of myclimate Deutschland (Reutlingen) shall have jurisdiction.

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