

Climex Auction Rules and Regulations

Besides Cleared Spot Transactions, Climex BV is offering regular Climex Auctions for Carbon Emission Rights. Participation in the Climex Auctions is also possible if you are not a member of the Climex Trading Platform for Cleared Spot Transactions and vice versa.

In order to participate in the Climex Auctions for Carbon Emission Rights the Participant needs to provide Climex with the following information and documents, together with two copies of the signed Climex Auction Participation Contract:

- an official statement from the Local Registry stating that the Participant has a certain Holding Account and the details of the Holding Account (only for buyers); and
- an extract from the Register of the Chamber of Commerce or any similar agency with respect to the Participant; and/or
- a duly signed confirmation document from a notary, confirming the existence of the legal entity and its authorisation schedule; and
- Copies of the valid passports of the Legal Representative and the Authorised Users.

The Climex Auction Documentation contains:

- The Climex Auction Rules and Regulations, consisting of:
 - The Climex Auction Definitions section containing all definitions of terms used in the complete Climex Auction Documentation.
 - The Climex Auction General Terms and Conditions that manages the relationship between Climex BV, the legal entity which operates Climex, and the individual Participant.
 - The Climex Auction Trading Rules describing the rules which apply to conducting Transactions on the Climex Trading Platform.
 - The Climex Auction Rule Book describing the proper and fair behaviour expected of Participants, to prevent market abuse and how Climex may respond in cases of market disorder.
- The Climex Auction Process and Procedures describing the membership, project listing, sales offering, bidding, transactions and post auction procedures and the fee schedule applicable to Participants.

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CLIMEX AUCTION DEFINITIONS

The following words or phrases, where they appear in the Climex Auction General Terms and Conditions, Climex Auction Trading Rules, Climex Auction Rule Book or Climex Auction Participation Contract and/or the Climex Auction Process and Procedures have the following respective meanings.

"Access Code" the user name, password and other information required to use the Services.

"Act" the implementation act or acts enacting the EU ETS Directive by the Member State under which law the Participant is incorporated.

"Accession Procedure" the procedure followed to admit a buyer or a seller of Carbon Emission Rights Options to the Climex Trading Platform.

"Accession Requirements" the requirements as set forth in the Participation Agreement which allow a Participant access to the Climex Trading Platform.

"Advisory Committee" a committee set up by Climex giving advice regarding the Climex Trading Platform, consisting of representatives of Climex and of Climex Participants, as well as external advisors.

"Affiliate" means, in relation to a corporate body, any subsidiary or holding company of such corporate body and any subsidiary of any such subsidiary or holding company from time to time.

"Agreement" an agreement between Climex and each Climex Participant, consisting of a Climex Auction Participation Contract and of which the Climex Auction Definitions, the Climex Auction General Terms and Conditions, the Climex Auction Trading Rules, the Climex Auction Rule Book and the Climex Auction Process and Procedures are a part, on which basis Climex' services are provided to that Participant.

"Authorised User" an employee or other representative of a Participant and whom that Participant has authorised to place Orders and conduct Transactions on the Climex Trading Platform.

"Carbon Emission Rights" the holding from time to time of EU Allowances and/or Certified Emission Reductions and/or Emission Reduction Units held within the Local Registry where Carbon Emission Rights are denominated in units of one (1) tonne of CO₂.

"Certified Emission Reduction" a unit issued under the CDM mechanism pursuant to article 12 of the Kyoto Protocol and other relevant requirements and which is equal to one metric tonne of CO₂e and which meets (i) the requirements of the EU ETS Directive and (ii) EU Linking Directive for use in the EU Emissions Trading Scheme.

"Carbon Emission Rights Auction" an auction held by Climex for the sale of Carbon Emission Rights Options on the basis of the Climex Auction Documentation.

"Carbon Emission Rights Option" the right and the obligation for two Participants on the basis of and as described in the Climex Auction Documentation to negotiate on the sale of 10,000 Carbon Emission Rights pursuant to an ERPA.

"C.E.T." means Central European Time.

"Climex" Climex B.V a private limited liability company acting under the name Climex and under the Climex trademark.

"**Climex Auction Definitions**" means this document.

"**Climex Auction Documentation**" any documentation entered into by the Climex Participant and Climex with regard to the trade in Carbon Emission Rights Options (or applicable to them), including but not limited to the Climex Auction General Terms and Conditions, the Climex Auction Trading Rules, the Climex Auction Rule Book, the Climex Auction Process and Procedures, the Climex Auction Participation Contract and the Climex Auction Definitions.

"**Climex Auction General Terms and Conditions**" the general terms and conditions of Climex that apply to the relationship between the Climex Participant and Climex.

"**Climex Auction Participation Contract**" the participation contract entered into by Climex and the Climex Participant for the admission to the Carbon Emission Rights Auction.

"**Climex Auction Rule Book**" the rule book established by Climex which applies in addition to the Climex Auction Trading Rules to the use of the Climex Trading Platform by a Climex Participant.

"**Climex Trading Platform**" a trading platform provided by Climex that is accessible exclusively to Participants only in order to trade Carbon Emission Rights Options.

"**Climex Auction Trading Rules**" the trading rules established by Climex which apply to the use of the Climex Trading Platform by the Climex Participant.

"**Climex Auction Process and Procedures**" the process and procedures as described and established by Climex which apply to the use of the Climex Trading Platform by the Climex Participant.

"**Community Independent Transaction Log**" the log which gives meaning to the 'independent transaction log' in Article 20 of the EU ETS Directive.

"**Compliance Period**" the compliance period in which a Carbon Emission Right is allocated.

"**Confirmation**" confirmation of a Transaction sent by Climex to the Participants electronically.

"**CO₂e**" the unit of measurement used to indicate the global warming potentials defined in decision 2/CP.3 of the Marrakech Accords or as subsequently revised in accordance with Article 5 of the Kyoto Protocol.

"**Dispute Committee**" a committee set up or designated by Climex, authorised to provide binding advice with respect to disputes based on a measure imposed by Climex on a Climex Participant within the meaning of Article 4 of the Climex Carbon Emission Rights Auction Rule Book.

"**Due Diligence**" an investigation of a potential CDM or JI project, serving to review financial records plus anything else deemed material to the sale.

"**Encumbrances**" any liens, security interest, claims and encumbrances.

"**ERPA**" means Emission Rights Purchase Agreement substantially in the form attached as exhibit 1 applying to the Climex Auction Documentation.

"**EU Allowance**" means an "allowance" as defined in the EU ETS Directive that has been issued by a competent authority pursuant to Article 11(4) of the EU ETS Directive.

"EU ETS Directive" means Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC as amended from time to time.

"EU Linking Directive" directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms as amended from time to time.

"EU Emissions Trading Scheme" means the scheme of transferring EU Allowances and Carbon Emission Rights (a) between persons within the European Community and (b) between persons within the European Community and persons in third countries, in either case as recognised in accordance with, and subject to, the procedure of Article 24 of the EU ETS Directive established in, and as implemented by the national laws of, each member state.

"Euro" the lawful currency of the member states of the European Union which adopt the single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on European Union.

"Excess Emissions Penalty" is a penalty for excess emissions of carbon dioxide pursuant to the Relevant Legislation.

"Expiry Date" is the date specified for settlement as part of the Order.

"Greenhouse Gases" or **"GHGs"** means the six gases listed in Annex A to the Kyoto Protocol.

"Intellectual Property Rights" all patents, trademarks, trade names, base rights, copyrights and other intellectual property rights and domain names.

"Listing Agent" a third party contracted by Climex which provides interested Sellers and/or project developers with information (about the procedure of the auction, the obligations under the auction and how to subscribe) and executes Due Diligence on the Sellers and the Projects in order to ensure completeness and correctness of the project information and select projects that are suitable to participate in the auctions. The Listing Agent hands over the Climex Documentation to Sellers, gives instructions on the information, manages expectations of Sellers and makes sure that Sellers fully understand what is expected of them and what they in return can expect.

"Local Registry" the registry established by any Member State pursuant to the EU ETS Directive and the Registry Regulation, in order to ensure the accurate accounting of the issue, holding, transfer, acquisition, surrender, cancellation and replacement of Carbon Emission Rights.

"Maximum Value at Risk" the amount specified by a Participant as the maximum (at any time) Value at Risk for another Participant.

"Member State" any one of the members states to the European Community from time to time.

"Moderator" the person appointed by Climex to monitor Orders, Options and Transactions for compliance with the Climex Auction Documentation.

"Climex" the private limited liability company executing the Climex Trading Platform and initiator of the Climex Alliance. In this document referred to as Climex.

"Operator Holding Account" the account of a Participant as described in Article 4 of the Registry Regulation upon which the Relevant Authority annually credits the Carbon Emission Rights in accordance with the relevant national allocation plan.

"Order" an offer to sell a Carbon Emission Rights Option or a bid to purchase a Carbon Emission Rights Option on the Climex Trading Platform during a Carbon Emission Rights Auction.

"Participant" any legal person or company permitted to place Orders and/or enter into transactions with regard to Carbon Emission Rights Options on the Climex Trading Platform on the basis of a Climex Auction Participation Contract (such Participant is also known as a **"Climex Participant"**).

"Participation Agreement" the agreement between a Participant and Climex in the form attached as exhibit [•] to the Climex Auction Documentation granting admission to the Carbon Emission Rights Auction.

"Parties" Climex and the Climex Participant.

"Party" Climex or the Climex Participant.

"Permit" means a Greenhouse Gas Emissions Permit issued to an Installation pursuant to the EU ETS Directive.

"Personal Data" all data that Climex collects about a Participant, its Authorised Users and the Orders placed and Transactions conducted by the Participant.

"Person Holding Account" an account of a Participant as described in Section 5 of the Registry Regulation held at a Local Registry.

"Post Auction Negotiations" commence after a Carbon Emission Rights Option has been conducted in order to finalise and sign the Emission Reduction Purchase Agreement (ERPA).

"Project" as defined under the CDM mechanism pursuant to article 12 of the Kyoto Protocol and other relevant requirements.

"Project Information" all information made available by Climex to a Participant in relation to a Project for which a seller of Carbon Emission Rights Options has been, or is likely to be, admitted to the Climex Trading Platform.

"Project Registry" is part of the Climex Trading Platform where Project Information is made available.

"Purchase Order" is an Order to purchase Carbon Emission Rights Options on the Climex Trading Platform.

"Registry" shall have the same meaning as in the Registry Regulation.

"Registry Regulation" means the EU Commission Regulation No. 2216/2044 for a standardised and secured system of registries pursuant to Article 19(3) of Directive 2003/87/EC and Article 6(1) of Decision 280/2004/EC, as amended from time to time.

"Relevant Authority" means the competent authority, the registry administrator and/or the Central Administrator these terms being defined in the Registry Regulation or any other authority having power pursuant to the EU ETS Directive and/or the Registry Regulation to issue, allocate, block, suspend, refuse, reject, cancel or otherwise affect the transfer (whether in whole or in part) of Carbon Emission Rights.

"Relevant Legislation" is the Act and all rules, regulations and legislations under or pursuant thereto.

"Required Authorisations" all governmental and other licenses, authorisations, permits, consents, contracts and other approvals (if any) which are required, whether from any Member State, the EU or any agency or other emanation of any of the foregoing, to enable the Participant to fulfil any of its obligations under the Agreement.

"Sales Order" an order for the sale of Carbon Emission Rights Options on the Climex Trading Platform.

"Services" access to the Climex Trading Platform and the supply of services by Climex for the purposes of facilitating the Climex Participant's Orders, Carbon Emission Rights Options and Transactions as described in Article 4 of the Climex Auction Trading Rules.

"Settlement" means in respect to Carbon Emission Rights Option the payment to and from the Accounts and the delivery of Carbon Emission Rights to and from the Accounts, between Participants.

"Term Sheet" contains a description of the terms and conditions under which a project is on offer and is available for the Participants during the Carbon Emission Rights Auction. Orders that are entered are subject to the complete Term Sheet.

"Transaction" means the acceptance of an Order by a Participant, resulting in the entering into one of more Carbon Emission Rights Options between two Participants.

"UNFCCC Independent Transaction Log" meaning as described in Decision 19/CP7 of the Marrakech Accords.

"United Nations Framework Convention on Climate Change" or **"UNFCCC"** the United Nations Framework Convention on Climate Change adopted in New York on May 9, 1992.

"Use-related Fee" or Transaction fee set by Climex in Euro cents per Carbon Emission Rights Option.

"Value Added Tax" or **"VAT"** (a) any value added tax imposed by any Member State or (b) any replacement or other tax levied by reference to value added to a transaction.

"Value at Risk" the sum of the absolute values of all outstanding liabilities from Carbon Emission Rights Options between two Participants, calculated, both for the buyer and seller under a Carbon Emission Rights Option on the basis of the purchase price for the Carbon Emission Rights under that Carbon Emission Rights Option.

"Vintage Period" is the year or number of years during which the Project is expected to source or produce the Carbon Emission Rights.

"Vintage Year" is a single year as part of a Vintage Period.

"Workdays" Monday to Friday, with the exception of national holidays in the Netherlands, from 9 a.m. to 5 p.m. Central European Time.

Climex Auction General Terms and Conditions

Capitalised terms are defined in the Climex Auction Definitions.

Article 1. Applicability of these Climex Auction General Terms and Conditions

- 1.1 These Climex Auction General Terms and Conditions apply to all of Climex' offers the Agreement and the Services. If there is any conflict between the Climex Auction Participation Contract, the Climex Auction General Terms and Conditions, the Climex Auction Trading Rules, a Confirmation, the Climex Auction Rule Book and/or the Climex Auction Process and Procedures, the documents will prevail in the following order:
- i. a Confirmation;
 - ii. the Climex Auction Participation Contract;
 - iii. the Climex Auction General Terms and Conditions;
 - iv. the Climex Auction Trading Rules;
 - v. the Climex Auction Rule Book; and
 - vi. The Climex Auction Process and Procedures.
- Numbers (i), (ii), (iii), (iv), (v), and (vi) give the order with regard to conflicts between any Participant and Climex, between Participants or any other conflicts.
- 1.2 The applicability of the Participant's general terms and conditions is excluded. With regard to any Orders and/or Transactions on the Climex Trading Platform the Participants hereby relinquish any rights they might have vis-à-vis with each other pursuant to any other agreement with regard to trading in general and particularly with regard to trade in Carbon Emission Rights Options and/or similar rights and/or any derivative rights on the aforesaid, with the exception of any rights arising from or in connection with the Climex Auction Documentation.
- 1.3 If any provision or any portion of a provision contained in the Agreement is void or nullified, the remaining provisions of the Agreement will remain fully in force, and the Parties will consult in order to agree on a new provision to replace the void or nullified provision, in which context the purpose and purport of the void or nullified provision will be taken into consideration to every extent possible.
- 1.4 Climex may at any time amend the Climex Auction Rules & Regulations, in which case the amended Climex Auction Process and Procedures will also apply to Agreements which are already in force. The amended Climex Auction Rules & Regulations will not apply to Carbon Emission Rights Options, Transactions and ERPAs which are already in force. Climex will inform the Participant at least one (1) month prior to the time at which any such amendment to the Climex Auction Rules & Regulations enters into force. If the Participant does not accept an amendment to the Climex Auction Rules & Regulations, the Participant will be entitled to terminate the Agreement as of the date on which the amendment to the Climex Auction Rules & Regulations enters into force. This Article does not apply to adjustments of the Use-related Fee as referred to in Article 9.
- 1.5 Climex may at any time amend the Climex Auction Process and Procedures, in which case the amended Climex Auction Process and Procedures will also apply to Agreements which are already in force. He amended Climex Auction Process and Procedures will not apply to Carbon Emission Rights Options, Transactions and ERPAs which are already in force. Climex will inform the Participant at least two (2) weeks prior to the time in which any such amendment to the Climex Auction Process and Procedures becomes effective. If the Participant does not accept an amendment to the Climex Auction Process and Procedures, the Participant will be entitled to terminate the Agreement as of the date on which the amendment to the Climex Auction Process and Procedures becomes effective. This Article does not apply to adjustments of the Use-related Fee referred to in Article 9.
- 1.6 Notwithstanding Article 1.4 and 1.5, Climex will inform the Participant as soon as possible if it is necessary to amend the Climex Auction Documentation on the ground of amendments to any applicable law and regulations, in which case it will not be possible to terminate the Agreement unless the Agreement has been substantially amended.

Article 2. Registration and Agreement

- 2.1 In order to be able to make use of the Services, each Climex Participant must conclude a Climex Auction Participation Contract with Climex. The Participant must complete the Climex Auction Participation Agreement in full and provide Climex with any required additional information. If a possible Participant is not yet registered with a Local Registry, at that possible Participant's request Climex will, without any liability whatsoever for the accuracy thereof, provide information to the Participant regarding the manner in which it can register with that Local Registry.
- 2.2 After receiving the Climex Auction Participation Contract, signed by the Participant, together with all of the required enclosures, Climex will verify the Participant's registration and, if applicable, its status with the Local Financial Markets Regulator. The Agreement will be deemed concluded when Climex signs the Climex Auction Participation Contract signed by the Participant.
- 2.3 All Participants agree that as soon as the Agreement is deemed concluded, their company name and logo will be published on the Climex website to complete the list of members.
- 2.4 The Participant undertakes to have a financial status to be sufficient at all times in order to be able to meet all payment and delivery obligations arising from Carbon Emission Rights Options and ERPAs which it concludes.

Article 3. Access to the Climex Trading Platform

- 3.1 Upon receipt of duly executed copies of the Climex Auction Participation Contract by Climex, Climex will provide the Participant with Access Codes, the number of which will be equal to the number of Authorised Users contained in the Climex Auction Participation Contract.
- 3.2 Each Access Code is linked to an Authorised User and may not be provided to third parties by the Authorised User. The Participant will immediately inform Climex if an Authorised User is replaced, in which case Climex will withdraw the Access Code and provide a new Access Code to the new Authorised User.
- 3.3 The Participant itself is solely responsible for the security and use of the Access Codes.
- 3.4 The Participant or an Authorised User will not change the Access Codes. If the Participant or an Authorised User loses an Access Code, the Participant will immediately inform Climex and will take all measures requested by Climex.
- 3.5 Climex is entitled at any time to change any Access Code. Climex will inform the Participant as quickly as possible of any changes. Climex will make every effort to limit the inconvenience resulting from changing an Access Code with respect to the use of the Climex Trading Platform as much as possible. For the record and unquestionably, Climex shall not be liable for any loss suffered by the Participant as a result of any such changes.
- 3.6 Climex is not responsible or liable towards the Participant or any other person if the Participant loses or allows any persons other than an Authorised User to have access to its Access Code.
- 3.7 Climex can assume until notified to the contrary that the person using the Access Code is authorised to do so by the Participant.

Article 4. Services

- 4.1 Climex will make every effort to supply the Services in a careful and competent manner. It is technically impossible to supply the Services free of any errors.
- 4.2 Climex will make every effort to provide access to the Climex Trading Platform as soon as possible after the Agreement has been concluded.
- 4.3 Climex may engage any third parties in connection with the provision of the Services.
- 4.4 Climex may amend the technical specifications with respect to the Services, provided the operation of the Services is not substantially changed due to any such amendment.
- 4.5 The Services may include: (i) using the Climex Trading Platform, (ii) distribution of information regarding Orders and Projects, (iii) limited Due Diligence to Participants and Projects, (iv)

placing Orders, (v) conducting Carbon Emission Rights Options and/or Transactions, (vi) informing parties to an intended Carbon Emission Rights Option and/or Transaction on the outcome of the verification procedure and (vii) introducing Parties to a Carbon Emission Rights Option to each other in order to start the finalisation of the ERPA.

- 4.6 The Services do not include: (i) representation or mediation during Post Auction Negotiation processes and or procedures, (ii) clearing of Carbon Emission Rights Options, Transactions and/or ERPAs, (iii) administration and mark-to-market valuation of ERPAs and (iv) the settlement of signed ERPAs upon expiry of the instalments.
- 4.7 Climex and the Participant may refer to each other in marketing statements provided that they have the other Party's permission to do so.

Article 5. Use of the Services

- 5.1 The Participant must have suitable computer hardware, software and communication connections to use the Services, including, but not limited to, a personal computer with internet access (with Internet Explorer 5.5 or higher).
- 5.2 The Participant and its Authorised Users will comply with the Climex Auction General Terms and Conditions, the Climex Auction Trading Rules, the Climex Auction Rule Book, the Climex Auction Process and Procedures and all applicable laws and regulations. Climex and its employees will comply with the Climex Auction Documentation, and all applicable laws and regulations.
- 5.3 The Participant guarantees that it is legally entitled to the Carbon Emission Rights Options which are offered on the Climex Trading Platform and such Carbon Emission Rights Options are not subject to any Encumbrances and it has all power and capacity (corporate and otherwise) to enter into Carbon Emission Rights Options.

Article 6. Suspension of Services

- 6.1 Climex is entitled to temporarily suspend the Services if necessary for technical reasons. Climex will inform the Participant as quickly as possible regarding any suspension of services and the expected date of resumption of the Services. For the record and unquestionably, Climex shall not be liable for any loss suffered by the Participant as a result of any such suspension.
- 6.2 Without prejudice to any other rights, Climex is entitled to temporarily suspend the Services if the Participant fails to comply with any obligation pursuant to the Agreement, unless the breach does not reasonably justify such suspension.
- 6.3 Climex will resume the Services if the Participant complies with its obligations within a reasonable term after being notified by Climex.

Article 7. Helpdesk

- 7.1 Climex has set up a helpdesk, which is available during Workdays for questions regarding the functioning of the Climex Trading Platform. The helpdesk is accessible by telephone (+31-(0)30-2919940) or by e-mail (tradingdesk@climex.com) .

Article 8. Privacy

- 8.1 Climex processes Personal Data to provide Access Codes and in order to register Orders and Carbon Emission Rights Options, as well as saving such data and/or providing it to third parties insofar as it has a legal obligation to do so.
- 8.2 The Participant acknowledges that Climex may process the Personal Data of the Participant's employees within the framework of the Services under the Climex Auction Documentation.
- 8.3 The Participant guarantees that it has received its employees' approval, so far as legally required, for Climex to process their Personal Data as referred to in Articles 8.1 and 8.2 above.

Article 9. Fee and payment

- 9.1 The Participant shall pay Climex the Use-related Fees referred to in the Agreement and as specified in the Climex Auction Process and Procedures.
- 9.2 The Participant shall pay Climex a Use-related Fee for each Carbon Emission Rights Option. Invoices sent by Climex are due within two (2) weeks by the Participant. Climex shall invoice each Participant of the Carbon Emission Rights Auction for the Use-related Fee after 60 Workdays after each Carbon Emission Rights Auction for the Carbon Emission Rights Options entered into by such Participant, if any.
- 9.3 The fees charged by Climex are exclusive of Value Added Tax (VAT).
- 9.4 Climex is entitled to adjust the Use-related Fee or define other fees per Carbon Emission Rights Auction. Climex will inform the Participant in writing two (2) weeks before each Carbon Emission Rights Auction of any such changes. If the Participant does not wish to accept an adjustment of the Use-related Fee with respect to which Climex has notified it, the Climex Participant is entitled to terminate the Agreement within two (2) weeks after the date of the above-mentioned notification, effective from the date on which the amended Use-related Fee would have entered into effect as indicated in Climex' notification. If the Participant does not avail itself of the opportunity to terminate the Agreement, the Participant will be bound by the adjusted Use-related Fee.
- 9.5 If the Participant does not pay the fee owed within the agreed term, it may incur statutory interest on the outstanding amount without any notice of default being required. If the Participant fails to pay the amounts due after being given notice of default, it shall also be responsible for all out-of-court collection costs that Climex reasonably incurs.
- 9.6 The Participant may not set off the fees owed against any amount that Climex may owe the Participant

Article 10. Intellectual Property Rights

- 10.1 All Intellectual Property Rights to or in connection with the Services and the Climex Trading Platform are vested solely in Climex or its licensors.
- 10.2 Climex will indemnify the Climex Participant against all damage and costs resulting from or related to any legal claim based on the allegation that the use of the Services and/or the Climex Trading Platform infringes a third party's intellectual property right or industrial property right, provided that the Climex Participant immediately informs Climex in writing about the existence and content of the claim and leaves the handling of the case, including agreeing on any settlements, entirely to Climex. Within that context the Climex Participant will fully cooperate with Climex so that Climex can defend itself against such claims.
- 10.3 If it has been legally established that the Services infringe any intellectual property right or industrial property right of a third party, or if in Climex' opinion there is a reasonable chance that such an infringement has occurred, the Participant's sole right will be to have Climex, at Climex' cost and of its own choice, ensure that (i) the Participant acquires the right to continue using the Services and the Climex Trading Platform; or (ii) the Services are replaced or adjusted so that they no longer constitute an infringement; or (iii) if Climex cannot reasonably be expected to realise either of those options, the Agreement is terminated.

Article 11. Confidential information

- 11.1 Both Parties guarantee that all of the confidential information received from the other Party before and after the conclusion of the Agreement and all Project Information received by a Participant to be kept secret and that during a period of two (2) years after the date on which the confidential information and/or Project Information is received, the receiving Party will not disclose that information, in full or in part, to anyone other than its own representatives who must be aware of the confidential nature of the information and/or the Project Information,

without prior written permission of the other Party or unless otherwise permitted pursuant to the Agreement. In addition the Participant will not use the Project Information for any purpose other than for the (possible) conclusion of Carbon Emission Rights Options. Information will in any event be deemed confidential if the Parties specify that it is confidential or if the other Party should reasonably understand that it is confidential in view of its nature. The Access Codes and any information with regard to Orders or Transactions are considered confidential information. Climex may disclose confidential information or Project Information to a third party in connection with any statistical research or to price reporting agencies as long as such information does not directly relate to one single Transaction or such disclosure could not reveal the identity of any Party. Climex may also reveal Project Information to any Participant.

- 11.2 In order to comply with the obligations referred to in this Agreement, the receiving Party will take the same measures to protect the information it takes in order to protect its own similar confidential information. The receiving Party will not be liable in the event of confidential information unintentionally being disclosed, provided that (i) in order to prevent the confidential information becoming known, it exercised the same degree of care applied to its own information of similar importance; and (ii) upon discovering the information was unintentionally made known, it will take every measure reasonably possible in order to prevent the confidential information from being disclosed any further.
- 11.3 The Participant will impose on the Authorised Users the duty of confidentiality referred to in Article 11.1 above.

Article 12. Term and Termination of the Agreement

- 12.1 The Agreement is entered into for a period of one (1) year starting on the date Climex receives the executed Agreement and expiring on the same day a year thereafter. Upon the lapse of the initial term, the Agreement will be automatically renewed, each time for a period of one (1) year, unless one of the Parties informs the other Party in writing, no later than one (1) month before the current term lapses that it does not wish to renew the Agreement.
- 12.2 The Agreement shall automatically terminate at the moment the Participant no longer meets the Climex Accession Requirements.
- 12.3 The Participant shall notify Climex forthwith of the occurrence of the fact listed in 12.2 or if the occurrence of such events can be reasonable expected within two (2) calendar months by the Participant.
- 12.4 Either Party may terminate the Agreement extra judicially if the other Party fails to comply with any of its obligations and that breach is not remedied within a reasonable term after being notified in detail and in writing of the breach. In the event that Climex commits a serious breach vis-à-vis a Participant, that Participant will be entitled to terminate the Agreement.
- 12.5 Either Party may terminate the Agreement in full or in part by giving written notice, effective immediately, without any notice of default or court intervention being required, if (i) the other Party is granted a suspension of payments, whether or not provisional; (ii) a petition of insolvency is filed or pending or granted with respect to the other Party; (iii) the other Party's business is wound up or terminated, other than for the benefit of a reconstruction or consolidation of companies; (iv) the other Party violates the duty of confidentiality within the meaning of Article 11 above; or (v) due to legislation or an amendment to legislation, the other Party is not or is no longer able to comply with its obligations pursuant to the Climex Auction Documentation, and in the case of Climex a change in the interpretation of the legislation or an amendment to legislation.
- 12.6 Neither Party will owe any damages due to the termination of the Agreement pursuant to this Article.

Article 13. Consequences of the termination of the Agreement

- 13.1 If the Participant has already received Services at the time of termination within the meaning of Articles 12.2 and 12.4 above, those services and the related payment obligations will not be

subject to cancellation unless Climex is in default with respect to those Services. Fees that Climex invoiced before the termination in connection with the Services that it already provided in accordance with the Agreement will remain due in full, with due observance of the provisions contained in the foregoing sentence, and will be immediately due and payable at the time of dissolution.

- 13.2 Upon termination of the Agreement, regardless of the reason for termination, the Participant will immediately cease using the Services and Climex will block the Access Codes.
- 13.3 Termination of the Agreement shall in and of itself have no effect on the outstanding Carbon Emission Rights Options, Transactions and/or ERPAs if any, of the Participant.

Article 14. Liability

- 14.1 Unless damage arises from an intentional act or gross negligence on the part of (i) one of the Parties, or (ii) one of the Parties' executives, the Parties will in no event be liable towards each other for any damage, either pursuant to the Agreement or on the basis of a wrongful act, unless otherwise expressly determined in this Article.
- 14.2 Any liability for damage other than damage within the meaning of the first paragraph of this Article, including but not limited to loss of income, profit or goodwill, lost computer time, replacement costs, an Excess Emissions Penalty, destruction or loss of or damage to data, lost savings, damage due to business stagnation or business damage, is excluded.
- 14.3 Climex is not liable for any damage suffered by a Participant acting as a seller in a Carbon Emission Rights Option, a Transaction or under an ERPA if it is not possible for a buyer in a Transaction to pay any funds that may be owed to the selling Participant.
- 14.4 Climex is not liable for any damage suffered by a Participant acting as a buyer in a Carbon Emission Rights Option, a Transaction or under an ERPA if it is not possible for a seller in a Transaction to deliver any Carbon Emission Rights Options or Carbon Emission Rights that may be owed to the buying Participant.
- 14.5 The Participant acknowledges where two Participants so agree, that an escrow agent may be entrusted with the settlement of an ERPA. Climex is not liable for any damage the Participant may incur in connection with or arising out of any action or omission of the escrow agent or any persons belonging to the escrow agent in connection with the settlement of an ERPA, or any Carbon Emission Rights or funds, to a designated account of a Participant.
- 14.6 Climex cannot be held liable for damages that may be incurred as a result of default in VAT applications in any Transactions between a Participant and an escrow agent or between Participants.
- 14.7 A Party's liability for non-performance of the Agreement will arise only if the other Party gives the defaulting party immediate written notice of default while granting a reasonable term to remedy the default, and the defaulting Party continues to be in default with respect to compliance with its obligations after that term has lapsed. The notice of default must contain a description of the breach that is as detailed as possible in order to allow the defaulting party to respond adequately.
- 14.8 This Article does not regulate the liability amongst any two Participants.

Article 15. Indemnification

- 15.1 The Participant will indemnify Climex against any pecuniary damages or compensation that Climex pays out as a result of claims by other Participants or the Local Registry or the escrow agent or any other regulatory or governmental agency as a result of (i) actions on the part of the Participant or an Authorised User that are contrary to the Climex Auction Documentation, or (ii) the provision, by the Participant or an Authorised User, of incorrect information to Climex, the Local Registry, the escrow agent or any other regulatory or governmental agency.
- 15.2 The Participant will indemnify Climex against any pecuniary damages or compensation that Climex pays out as a result of claims by the Participant's employees as a result of the Participant's failure to obtain the required approval of its employees for Climex to process their Personal Data as referred to in Article 8.1, and as guaranteed by the Participant in Article 8.3.

Article 16. Force majeure

- 16.1 Neither Party will be obliged to comply with any obligation during the continuation of a *force majeure* (including government measures, power failures, and disruptions in the telecommunications network) which prevents it from complying with such obligation.
- 16.2 If the *force majeure* continues for more than thirty (30) days, the Parties will be entitled to terminate the Agreement extra judicially, in which case all performances already rendered under the Agreement will be settled proportionally without the parties owing each other anything further.
- 16.3 This article does not cover *force majeure* with respect to Transactions amongst Participants or with respect to an ERPA. The ERPA covers any *force majeure* issues in connection with any Carbon Emission Rights Options and subsequent transactions between the Participants or between the Participants and the escrow agent.

Article 17. Other provisions

- 17.1 The Parties acknowledge that an electronic signature has the same legal force as a handwritten signature.
- 17.2 During the term of the Agreement and for a period of six (6) months after its termination, neither Party will hire employees of the other Party who were involved in the performance of the Agreement or otherwise allow such employees to perform work for it.
- 17.3 Climex is entitled to transfer to a third party the rights and obligations arising from the Agreement. A Participant must obtain prior written permission from Climex if it wishes to transfer rights and/or obligations arising from the agreement to a third party.

Article 18. Applicable law and disputes

- 18.1 Subject to Articles 18.2 and 18.3, the Agreement and the Services are governed by English law.
- 18.2 The Parties will make every effort to settle any disputes related to the Agreement and/or the Services amicably, if necessary by means of meetings with the Parties' directors.
- 18.3 Any disputes amongst Climex and the Participants that cannot be resolved in spite of the efforts referred to in the 18.2 will be settled by the Dispute Committee.

Climex Auction Trading Rules

The Climex Auction Trading Rules apply to the use of the Climex Trading Platform and to all Orders placed and Carbon Emission Rights Options conducted on the Climex Trading Platform.

Capitalised terms are defined in the Climex Auction Definitions.

Article 1. General

- 1.1 The Participant may use the Climex Trading Platform and Services exclusively to place Orders and to conduct Carbon Emission Rights Options and/or Transactions.
- 1.2 The Services may be used only by Authorised Users. Only Authorised Users are entitled to place Orders and to conduct Carbon Emission Rights Options and/or Transactions. Authorised Users may do so only by using the Access Code assigned to them.
- 1.3 The Participant will ensure that the Authorised Users do not disclose the Access Codes to third parties or allow third parties to use the Climex Trading Platform or Services without written consent and approval of Climex.
- 1.4 The Participant guarantees that it is entitled to place Orders and conduct Carbon Emission Rights Options and/or Transactions and that the Authorised Users are entitled to place Orders and conduct Carbon Emission Rights Options and/or Transactions on behalf and for the account of the Participant.
- 1.5 All Orders placed and Carbon Emission Rights Options and/or Transactions conducted on the Climex Trading Platform are business-to-business Orders and business-to-business Carbon Emission Rights Options and/or Transactions.

Article 2. Information

- 2.1 The Participant guarantees the correctness and accuracy of the information stated on the Climex Trading Platform and, for sellers of Carbon Emission Rights Options only, the Participant guarantees the correctness and accuracy of the Project Information.
- 2.2 Climex is not obliged to verify the correctness and accuracy of the information the Participant states on the Climex Trading Platform.

Article 3. Project Listing and Registry

- 3.1 Climex shall make available as part of the Climex Trading Platform, a Project Registry for the listing of Projects and the Carbon Emission Rights which are generated from the Projects, subject to the terms and conditions of the Climex Documentation;
- 3.2 The Project Registry will contain all relevant project details and project documentation which are reasonably expected to be necessary for Participants to be able to assess the quality of the project, the quantity of the available Carbon Emission Rights Options and by which time the Carbon Emission Rights may become available.
- 3.3 Climex is not obliged to verify the correctness and accuracy of the information contained in the Project Registry but, notwithstanding Article 2, will execute a Due Diligence process on a 'best effort' basis.
- 3.4 All Projects listed in the Project Registry are listed exclusively for a period of 2 weeks prior to the day on which an Auction is planned until the end of the day the Auction was held.

Article 4. Orders and Transactions

- 4.1 By providing the Climex Trading Platform, Climex offers the Climex Participant an electronic, central venue for placing Orders and conducting Carbon Emission Rights Options and/or Transactions with other Participants at its own expense.

- 4.2 The Participant is entitled at all times to withdraw an Order until the time of a Carbon Emission Rights Option and/or Transaction within the meaning of Articles 5.2, 5.3 and 5.4.
- 4.3 Climex saves the history of every Order, Carbon Emission Rights Option and Transaction and all activities related to Orders, Carbon Emission Rights Options and Transactions for a period of 5 years.
- 4.4 The Participant independently establishes the number and type of Carbon Emission Rights Options it wishes to offer or request and at what price, from which Project the Carbon Emission Rights originate and in which year the delivery of the Carbon Emission Rights are to take place under the ERPA.
- 4.5 For each Order, Carbon Emission Rights Option and/or Transaction, the Participant is required to state (i) the price, (ii) the number of Carbon Emission Rights, (iii) the Vintage Period of the Carbon Emission Rights to which a Carbon Emission Rights Option relates, (iv) the identification of the relevant project, (v) the delivery date of the Carbon Emission Rights that are the subject to the Carbon Emission Rights Option and (vi) other required data specified by Climex. All prices mentioned in Orders and Carbon Emission Rights Options and/or Transactions shall be expressed in Euros. Orders cannot be made subject to any conditions or constraints other than those that are explicitly accepted by Climex. Climex has the irrevocable right to subject Orders and/or Projects to certain specifications, including, but not limited to, a maximum or a minimum size of the Order. These specifications, including but not limited to the specifications mentioned in this Articles 4.5 are part of the Term Sheet.
- 4.6 The Participant is required to electronically confirm to Climex the price, the number of Carbon Emission Rights Options and other conditions to be indicated by Climex as stated in Article 4.5 for each Order before the Order is placed on the Climex Trading Platform. Climex places Orders on the Climex Trading Platform electronically after it receives the aforementioned confirmation. The conditions of and the Term Sheet applicable for the Carbon Emission Rights Options offered are visible to all Participants on the Climex Trading Platform. The Carbon Emission Rights prices stated on the Climex Trading Platform are exclusive of VAT.
- 4.7 Persons not party to the Agreement have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

Article 5. Trade package Carbon Emission Rights Auctions

- 5.1 The Participant has access to information about the Project, the Term Sheet and developments of the price, value and volume of Orders and proposed Carbon Emission Rights Options on the Climex Trading Platform during Carbon Emission Rights Auction hours. Climex offers the possibilities referred to in Article 5.3 to trade Carbon Emission Rights Options on the Climex Trading Platform.
- 5.2 The Participant has the option to post a response to any sales Order entered. This response can contain an adjusted price and/or quantity of Carbon Emission Rights Options proposed.
- 5.3 The responses may be accepted by the Participant who originally entered the Order subject to a response on the basis of (i) the maximum possible amount if the complete Project can be included in the Carbon Emission Rights Option or (ii) the maximum possible transaction amount for a single Vintage Year or Vintage Period or individual sales Order as part of a Project. The value will be calculated by multiplying the number of Carbon Emission Rights Options a Participant is willing to buy by the price he is willing to pay in respect of the Carbon Emission Rights which are the subject of the Carbon Emission Rights Option. If (i) the responding Participant included all Orders that constitute the Project for sale in its responses and (ii) the total amount offered for the Project in the relevant response(s) equals or exceeds the amount included in all relevant Orders for the respective Project, then the selling Participant is obliged to accept the relevant response(s). In case of an equal value or equal amount, the time of entry of the Response is leading. If the Participant who originally entered the Order accepts the response, a proposed Carbon Emission Rights Option is concluded for the amount and price of the response and the terms and conditions as stated in the Term Sheet. Climex will conduct the verification procedure referred to in Article 5.5. If the outcome of the verification procedure is that the Maximum Value at Risk of each of the

- Participants on each other is not breached, a Carbon Emission Rights Option is concluded and Climex will send the relevant Participants a Confirmation.
- 5.4 If the Participant who originally entered the Order rejects the response, no Carbon Emission Rights Option is concluded. In this latter event such Participant can accept other responses during that Carbon Emission Rights Auction.
 - 5.5 After a Carbon Emission Rights Option has been concluded within the meaning of Article 5.3, Climex will conduct a verification procedure to establish that at the time the parties reached an agreement on the Carbon Emission Rights Option within the meaning of Article 5.3, the Participant acting as the buyer of Carbon Emission Rights Options and the Participant acting as the seller of Carbon Emission Rights Options each have not breached their Maximum Value at Risk for the other Participant to be involved in the Transaction. During the verification procedure, Climex will arithmetically reduce the buying and selling Participant's Maximum Value at Risk available for other, not fully settled Carbon Emission Rights Options conducted with the other Participant involved in the Transaction by deducting (both for Carbon Emission Rights Options for which the Participant acts as seller or as buyer) the purchase amount for the Carbon Emission Rights that are the subject of each Carbon Emission Rights Option which has not been fully settled from the Maximum Value at Risk a Participant has specified to the other Participant. Carbon Emission Rights Options shall not be netted-out against each other; not for purposes of calculating the usage of the Maximum Value at Risk also. For the calculation of the Maximum Value at Risk Climex shall assume that all Carbon Emission Rights Options are settled on the Expiry Date. Climex will conduct the verification procedure as quickly as possible and inform the relevant Participants about the outcome within 5 minutes thereafter. Each Participant irrevocably authorises Climex to carry out the verification procedure in accordance with this Article 5.5.
 - 5.6 If it becomes apparent from the verification procedure within the meaning of Article 5.5 that either or both of the Participants do not have enough room left in their respective Maximum Value at Risk for the other Participant, the Transaction will be terminated with immediate effect and the Participants will not need to negotiate an ERPA. In that event, the Participants will not owe the Use-related Fee within the meaning of Article 9 of the Climex Auction General Terms and Conditions. Climex will inform the relevant Participants (by electronic means) about the inability as aforesaid by the other Participant to perform the Transaction. The Project and/or Orders will become available again on the Climex Trading Platform. Each Participant understands that the verification procedure as described in Article 5.5 is no guarantee for the other Participant performing its obligations under a Carbon Emission Rights Option or an ERPA at the date specified for Settlement or any other relevant time. Climex shall in no circumstances be liable towards any Participant by virtue of any action taken by the participant in accordance with this Article.
 - 5.7 The entering into a Carbon Emission Rights Option serves as an obligation to move forward to negotiate an ERPA and as a declaration of good faith and intent of execution thereof no later than 60 Workdays after the Carbon Emission Rights Auction at which the Carbon Emission Rights Option was concluded. All items that are taken up in the relevant Carbon Emission Rights Option and in the underlying Term Sheet shall not be the subject of further negotiations between the relevant Participants and together will constitute a fixed term sheet to be recorded in the ERPA. The recorded obligation mentioned in the sentence before last is only conditional upon the granting of all appropriate governmental and regulatory consents, approvals and tax clearances (including but not limited to approval of or filings with all relevant non-compete authorities). Only when one of the parties to a Carbon Emission Rights Option fails to comply with one of the conditions set forth in this Article 5.7, the other party may terminate the negotiations at any time prior to the execution of the ERPA without liability to that party whatsoever. The ERPA template enclosed as exhibit 1 to the Climex Auction Documentation serves as the starting point to move forward and negotiate the final ERPA.
 - 5.8 The seller and the buyer under a Carbon Emission Rights Option agree that neither it nor any of its officers, directors, employees, agents or representatives will until 60 Workdays after the Carbon Emission Rights Auction at which the Carbon Emission Rights Option was concluded, directly or indirectly (i) sell or agree to sell, pledge or transfer the Carbon Emission Rights Options or any Carbon Emission Rights subject to the Carbon Emission Rights Option, (ii) solicit, or provide

information to, or conduct negotiations with, any other person concerning a possible sale, pledge or transfer of the Carbon Emission Rights Option or the Carbon Emission Rights subject to the Carbon Emission Rights Option. The seller and the buyer under a Carbon Emission Rights Option procure that all its subsidiaries, affiliates and group companies will comply with the above exclusivity provisions as if they were a party to this undertaking.

- 5.9 No party will make any public announcement with respect to a Carbon Emission Rights Option or the transactions contemplated there under without the prior consent of the other party, except as required by law.

Climex Auction Rule Book

This Rule Book applies to all Orders placed and Transactions performed on the Climex Trading Platform.

Capitalised terms are defined in the Climex Carbon Emission Rights Auction Definitions.

Article 1. Use of the Climex Trading Platform

- 1.1 The Participant will not use the Climex Trading Platform or the Services for any purpose other than to place Orders and to conduct Carbon Emission Rights Options and/or Transactions.
- 1.2 When placing Orders and conducting Carbon Emission Rights Options and/or Transactions, the Participant will act responsibly and competently and will exercise the necessary care and dedication that can be expected from a diligent Participant.
- 1.3 When placing Orders and conducting Carbon Emission Rights Options and/or Transactions, the Participant will act in accordance with (i) the Climex Auction Documentation, (ii) the Climex Auction Participation Contract (if applicable), and (iii) all applicable laws and regulations.
- 1.4 The Participant guarantees the correctness and accuracy of the Orders and Projects (if applicable) it places on the Climex Trading Platform and/or within the Project Registry.
- 1.5 On the Climex Trading Platform, the Participant will refrain from, among other things, (i) acting in a manner that could have a negative effect on confidence in the Climex Trading Platform or that could affect the integrity of the Climex Trading Platform; (ii) placing Orders or conducting Carbon Emission Rights Options and/or Transactions with the intention of misleading other Participants; (iii) acting in a manner intended to artificially influence or manipulate the price or value of the Carbon Emission Rights Options; (iv) placing sham Orders or conducting sham Carbon Emission Rights Options and/or Transactions; and/or (v) placing Orders or conducting Carbon Emission Rights Options and/or Transactions that create a false or fraudulent impression of the market for or the price or value of Carbon Emission Rights Options and/or Carbon Emission Rights Transactions.
- 1.6 The Participant will not in any way manipulate the technology of the Climex Trading Platform. The Participant will not in any way affect the technical operation of the Climex Trading Platform. Among other things, the Participant will not (i) breach or attempt to breach the security of the software, network, servers, data or computers connected to the Climex Trading Platform or those of a third party hosting the Climex Trading Platform; (ii) distribute software on the Climex Trading Platform that is aimed at jeopardising the privacy or security of the Climex Trading Platform and/or its Participants; or (iii) gain unauthorised access to the Climex Trading Platform or affect its integrity in any way.
- 1.7 The Participant will not use the Climex Trading Platform (i) to send large numbers of e-mails with the same content ('spam'); (ii) to send or instruct others to send large numbers of unsolicited e-mails to one particular e-mail address ('mail bombing'); (iii) for any other improper, unlawful or prohibited use; and/or (iv) to gain access to the computers or computer systems of other Participants without permission.

Article 2. Use of inside information

- 2.1 A Participant that has inside information is prohibited from placing Orders and performing or effecting Carbon Emission Rights Options and/or Transactions on the Climex Trading Platform in which such inside information is used.
- 2.2 The Participant is prohibited from (i) passing on inside information to parties, other than in the capacity of day to day work performance or in the Participant's occupation or position; and (ii) instructing others to place Orders or conduct Carbon Emission Rights Options and/or Transactions if the Participant has inside information.
- 2.3 Inside information is awareness of special events or circumstances related to Carbon Emission Rights Options or the rights to which Carbon Emission Rights Options relate, to the supply of

- and demand for Carbon Emission Rights Options or Carbon Emission Rights, or to the trade in Carbon Emission Rights Options or Carbon Emission Rights:
- a. that have not been made public; and
 - b. from which disclosure can reasonably be expected to affect the price of Carbon Emission Rights Options or Carbon Emission Rights, regardless of whether the price would go up or down.
- 2.4 The prohibition contained in Article 2.1 does not apply to:
- a. a Participant whose employees, acting in accordance with the principle of good faith, are involved in performing or effecting the Carbon Emission Rights Option and/or Transaction but do not have inside information that is available elsewhere for the Participant;
 - b. a Participant that performs or effects a Carbon Emission Right Options and/or Transaction in order to comply with an eligible obligation that already existed at the time when the Participant obtained knowledge of the special event or circumstance referred to in Article 2.3;
 - c. a Participant that performs or effects a Carbon Emission Rights Option and/or Transaction that is necessary to comply with a pre-existing obligation to supply Carbon Emission Rights, on the understanding that there is no such necessity if and insofar as the Participant already has Carbon Emission Rights that it is not obliged to supply;
- 2.5 The prohibition contained in Article 2.2 does not apply to employees of a Participant who is involved in providing recommendations and does not have inside information.
- 2.6 Knowledge that is available to a Participant that is nothing more than the Participant's own intentions or information about its own business does not constitute as inside information.

Article 3. Monitoring

- 3.1 Notwithstanding the provisions contained in Article 3 of the Climex Auction Trading Rules, Climex is not obliged to verify the accuracy of the Orders and/or Projects that the Participant refers to on the Climex Trading Platform.
- 3.2 Climex or the Moderator may monitor Orders, Carbon Emission Rights Options and/or Transactions in order to ensure that the Participant acts in accordance with the Climex Auction General Terms and Conditions, the Climex Auction Trading Rules, the Climex Auction Rule Book, the Climex Auction Process and Procedures and the applicable laws or regulations.
- 3.3 Climex or the Moderator is entitled to investigate a Climex Participant if it has grounds to assume that the Participant is acting contrary to the Climex Auction General Terms and Conditions, the Climex Auction Trading Rules, the Climex Auction Rule Book, the Climex Auction Process and Procedures and/or applicable laws or regulations. Climex or the Moderator will inform the Participant if it commences such an investigation, unless if informing the Participant would not be in the interest of the investigation.
- 3.4 Climex is entitled to take measures at its discretion with respect to Orders, Carbon Emission Rights Options and/or Transactions which in its reasonable opinion are contrary to the Climex Auction General Terms and Conditions, the Climex Auction Trading Rules, the Climex Auction Rule Book, the Climex Auction Process and Procedures and/or applicable laws or regulations, including issuing warnings or instructions, deleting an Order or a Project or temporarily suspending the Services in accordance with Article 6.2 of the Climex Auction General Terms and Conditions. The Participant is obliged to comply with Climex' instructions immediately.
- 3.5 Climex will immediately inform the Participant about any measures it will be taking. A Participant may object to a measure taken by Climex in accordance with the procedure described in Articles 5 and 6 below.

Article 4. Dispute Committee

- 4.1 Climex may set up a Dispute Committee, consisting of at least five persons including one Chair. Climex will appoint the Chair, after hearing the Advisory Committee. The Chair will appoint the other members of the Dispute Committee.

- 4.2 Climex employees may not be members of the Dispute Committee. The members of the Dispute Committee may not be connected to any Participant in any position and may not have been connected to any Participant in any position for a period of one year prior to appointment.
- 4.3 All appointments are for a period of three years. Each member of the Dispute Committee may be reappointed three times, in the manner indicated in Article 4.1 above in respect to the initial appointment.
- 4.4 If there is an interim vacancy in the Dispute Committee, the Chair will appoint a new member as soon as possible. If the Chair's position is vacant, Climex will appoint a new Chair as quick as possible, after hearing the Advisory Committee. The person appointed to fill in the vacancy as an interim will step down at the same time as the person whom he or she has replaced would have to.
- 4.5 Climex may appoint former members of the Dispute Committee as deputy members, after hearing the Advisory Committee. Under special circumstances, the Chair of the Dispute Committee may call on a deputy member to participate in certain Dispute Committee work. Such a deputy member has advisory powers but does not have the right to vote on Dispute Committee resolutions.
- 4.6 If the Chair is absent, the Dispute Committee will appoint a temporary Chair from its members. If the Chair is absent for more than two months, Climex will appoint a deputy Chair for the duration of the original Chair's absence, after hearing the Advisory Committee.
- 4.7 Climex will appoint a Secretary on the recommendation of the Chair of the Dispute Committee. The Secretary is not a member of the Dispute Committee. The Secretary provides support services to the Dispute Committee.

Article 5. Dispute Procedure

- 5.1 If the (i) Climex Participant disagrees with a measure that Climex takes within the meaning of Article 3.4 above or (ii) a Climex Participant has a dispute with another Participant after the entering into of a Carbon Emission Rights Option and/or Transaction, but prior to the execution of the relevant ERPA, the Participant, the plaintiff, may bring a dispute before the Dispute Committee. The Participant must send all correspondence by registered post to the Dispute Committee, c/o Climex. Subject to Article 5.14 below the Participant and Climex agree to be bound by the Dispute Committee's decision.
- 5.2 The Participant can bring a dispute by submitting a petition. The petition must contain the Participant's name and address, a description of the dispute, the Participant's claim and the grounds on which the Participant bases its claim. The Dispute Committee will not accept a petition that does not meet those requirements.
- 5.3 The Secretary will notify Climex and the other Participant involved in the dispute, if any, in writing that a dispute is being handled and will send Climex and the other Participant involved in the dispute, if any, a copy of the petition and any other documents that the Participant submits to the Dispute Committee.
- 5.4 Climex or the other Participant, as the case may be, must submit a statement of defence within ten (10) Workdays of the notification referred to in Article 5.3. The Secretary will send the Participant who brought the dispute before the Dispute Committee copies of the statement of defence and any documents that the defendant submits. The Dispute Committee may extend the term of ten (10) Workdays if the defendant submits a substantiated request to that effect.
- 5.5 The Dispute Committee will hold a meeting to hear the dispute, at which the plaintiff and the defendant will be given an opportunity to explain their positions. The meeting will be held within fifteen (15) Workdays after receipt of the statement of defence or, if a challenge is submitted within the meaning of Article 5.6, within fifteen (15) Workdays after the date on which a decision is made on the challenge. The term of fifteen (15) Workdays may be extended if the Dispute Committee is of the opinion that there are special circumstances to justify an extension. The Secretary will inform all of the parties of the date, time and place where the meeting of the Dispute Committee will be held.
- 5.6 Three members of the Dispute Committee, including the Chair, will hear the dispute. The Chair will appoint the other members who will hear the dispute. The Secretary will inform the plaintiff

and the defendant of the composition of the Dispute Committee and inform them of their right to submit a challenge. A member of the Dispute Committee can be challenged if there are facts or circumstances that may cast doubt on his or her impartiality in respect to the dispute brought before the Dispute Committee. A member of the Dispute Committee may excuse himself or herself. A challenge must be submitted to the Secretary in writing within ten (10) Workdays of the date of notification by the Secretary of the composition of the Dispute Committee, stating the reasons for the challenge. The Dispute Committee will not accept challenges which have not been submitted in time. The Dispute Committee, with the exception of the person challenged, will make a decision with respect to the challenge by a majority vote within five (5) Workdays of receipt of the written challenge. If the votes are equally divided, the vote of the Chair of the Dispute Committee will be decisive. The Secretary will notify all of the parties of the decision on the challenge, and if applicable of the name of the Dispute Committee member who will replace the challenged member. There is no independent legal remedy against the decision on the challenge.

- 5.7 The Chair is authorised to explain and supplement the procedural requirements contained in this Rule Book where necessary, based on the principle of reasonableness. There is no independent legal remedy against the Chair's exercise of that authority.
- 5.8 The plaintiff and the defendant may be represented by an authorised representative, who will have the right to speak at the meeting.
- 5.9 If the plaintiff or the defendant wishes to have a witness or expert heard at the meeting of the Dispute Committee, that party must inform the Dispute Committee accordingly in writing within the term set by the Dispute Committee for that purpose. The Dispute Committee may decide whether it will hear a witness or expert. If the Dispute Committee honours such a request, the Secretary will notify both parties in writing in a timely manner before the meeting. The Dispute Committee may also hear witnesses and experts on its own initiative.
- 5.10 Parties must provide the Dispute Committee with all of the information that it requests.
- 5.11 The Dispute Committee will render a decision on the dispute by a majority vote as quickly as possible, but in any event within fifteen (15) Workdays after the hearing of the dispute at the meeting referred to in Article 5.5 above. If the votes are equally divided, the vote of the Chair of the Dispute Committee will be decisive.
- 5.12 The members of the Dispute Committee must render their decisions prudently and fairly on the basis of the general principles of equity. The Dispute Committee will render its decision in the form of a recommendation. Subject to Article 5.14 below, the parties agree to be bound by the Dispute Committee's decision. The Dispute Committee's decision, which will be laid down in writing and substantiated, will state the names of the parties involved, the date on which the decision was rendered, the names of the Dispute Committee members who rendered the decision and of the Secretary, and will be signed by the Chair and the Secretary. The Secretary will send a copy of the decision to each of the parties by registered post.
- 5.13 The Secretary may publish decisions, without mentioning the names of the parties involved, in a manner to be determined by the Dispute Committee.
- 5.14 Within two months of the date on which the Dispute Committee rendered its decision, either the plaintiff or the defendant may issue proceedings in the English Courts in relation to the dispute above (and which led to the Participant bringing a dispute before the Dispute Committee under Article 5.1). If no proceedings are issued within the said period of two months the decision of the Dispute Committee shall be deemed to have been accepted by the parties in settlement of the dispute.

Article 6. Law and Jurisdiction

- 6.1 Subject to Article 5 above, this Rule Book shall be governed by, and construed in accordance with English law.
- 6.2 Subject to Article 5 above, the Participant and Climex agree to submit to the exclusive jurisdiction of the English Courts over any claim or matter arising under or in connection with this Rule Book.

- 6.3 No proceedings may be brought by a Participant under Article 6.2 in relation to measures taken by Climex within the meaning of Article 3.4 above until the Participant has followed the procedure set out in Article 5 above and the Dispute Committee has rendered its decision.
- 6.4 The Participant and Climex must bring any proceedings in the English Courts within two months of the decision of the Dispute Committee referred to in Article 5.12 above.