

Terms and Conditions for NativeEnergy Business Customers

When You Offset Your CO₂ with NativeEnergy, NativeEnergy will purchase on your behalf, as specified in your Purchase Confirmation Letter accompanying these terms and conditions:

- all of the environmental attributes (“renewable energy credits,” or “RECs”) associated with the electrical energy to be generated by a portion of a specific wind farm’s or wind turbine’s generating capacity over a fixed long-term period equal to its expected operating life;
- all of the environmental attributes of the electrical energy to be generated by a specific farm methane project over a fixed long-term period equal to its expected operating life;
- a portion of the CO₂ reductions associated with a farm methane project’s thermal energy generating capacity over a fixed long-term period equal to its expected operating life; and/or
- a portion of or a specific number of tons of the CO₂ equivalent offsets associated with a farm methane project’s methane abatement capacity, either generated during the year of your purchase or over a fixed long-term period equal to its expected operating life (as specified in your Purchase Confirmation Letter).

The project(s) to which we are allocating your purchase, and the delivery term for your purchase (“Delivery Term”), are identified in your Purchase Confirmation Letter. For forward purchases of long-term streams of RECs and/or carbon offsets, we will make this purchase for you when your project(s) achieves commercial operations (it is our contract to do so that the projects are relying on). The number of kilowatts of each project’s electrical generating capacity and/or the percentage of the farm project’s thermal energy or methane abatement generating capacity, as applicable, that will be allocated to you is specified in your Purchase Confirmation Letter. We estimate that these amounts of generating capacity will generate RECs representing the number of kilowatt-hours (kWh) of renewable electricity, and/or the amount of avoided fossil fuel use or methane abatement and resulting CO₂ reductions, if any, specified in your Purchase Confirmation Letter, over the applicable Delivery Term(s). Our methodology for estimating the number of kWh to be generated and the associated CO₂ reductions is described in the accompanying calculation methodology and on our web site at http://www.nativeenergy.com/how_we_calculate.html. We will donate your rights to these streams of RECs and offsets on your behalf to Clean Air-Cool Planet, a qualified 501(c)(3) organization. Clean Air-Cool Planet has agreed with us and promises to you that it will “retire” your RECs and offsets, which means that it will not use them, sell them or give them away, for any purpose, except to the extent necessary or advisable to effect the retirement thereof under applicable law.

Project Construction. Your project(s) is scheduled for construction by the date(s) specified in your Purchase Confirmation Letter. Part of actually helping build new renewable energy projects is committing to them in their early stages of development, when some uncertainties remain. So if the conditions for our purchase of your project(s)’ RECs and/or carbon offsets are not met, or if your project(s) is not built with NativeEnergy’s support for any reason, your purchase price will help build an alternate wind and/or farm methane project, on or before the date nine months after the applicable project’s scheduled construction date. We have relationships with a number of developers who have suitable projects in the early stages of development and that could really use our customers’ support. You’ll still own, and donate, all the RECs and/or carbon offsets to be generated by a share of the alternate project(s)’ generating capacity, adjusted for expected generation and expected operating life to produce at least your chosen number of tons of CO₂ emissions reductions over its expected operating life, according to our estimating methodology. If we are unable to accomplish this, we will make up any shortfall by acquiring CO₂ emissions reductions from other sources and donating them to Clean Air-Cool Planet on your behalf, just as we would your RECs and CO₂ emissions reductions from the projects identified in your Purchase Confirmation Letter. We’ll give you written notice of the alternate project that you’ll be helping to build, as well as new estimates of the quantity of RECs or CO₂ emissions reductions purchased and donated in your name. If you have purchased a specific number of tons of current-year methane abatement offsets from a project not yet built, we will only substitute the same number of tons of carbon offsets from alternative sources.



You will Receive a Receipt from Clean Air - Cool Planet. Our agreement with Clean Air - Cool Planet obligates us to convey to it legal title to the RECs and/or carbon offsets our customers donate, and obligates Clean Air - Cool Planet to send each donor an acknowledgement of receipt of the donation that conforms with Section 170 of the Internal Revenue Code. Clean Air - Cool Planet is an independent 501(c)(3) non-profit environmental organization. The receipt from Clean Air - Cool Planet will be proof that it has in fact received your donation.

Project Operations. The project owners/operators have agreed with us that they will use commercially reasonable efforts to build their project and, once it achieves commercial operations, to operate it for the duration of its Delivery Term. They've also agreed to perform all manufacturer-recommended maintenance and commercially reasonable repair, and to maintain adequate insurance. We also conservatively discount each project's expected performance to a level that we are confident that the projects we help build will perform - on average - as well or better than we estimated to our customers. So, while we cannot guarantee that every project will generate all the carbon offsets we estimated, our conservative discounting enables us to guarantee that if any given project fails, by the end of its Delivery Term, to achieve the carbon offsetting performance level we estimated it would, we will retire additional carbon offsets from: (i) that project's performance following the end of its Delivery Term, if available (by extending the Delivery Term until the estimate performance level is achieved); or (ii) the output of other projects in our portfolio that are supplying offsets on an up-front, long-term basis, to the extent that their performance during their Delivery Terms exceeds our estimates, including only: (a) those projects that first entered our portfolio after November 28, 2007; and (b) generating capacity of projects not already allocated to existing customers as of November 28, 2007. As such, all projects are subject to having their over-production, if any, during their Delivery Terms re-allocated to make up for under-production by any other project in our portfolio. Any RECs/offsets comprising such over-production that is not so re-allocated will be retired.

Our Emissions Reductions Estimates are Estimates Only. We estimate that delivery to the grid of the electricity associated with the kilowatts of generating capacity allocated to you, and any thermal energy or methane abatement generating capacity allocated to you, will generate the number of tons of CO₂ specified in your Purchase Confirmation Letter over your 25-year and 20-year purchase terms, calculated as specified in the Calculation Methodology accompanying your Purchase Confirmation Letter. But things will change. Wind speeds vary, and the system mix of power will change, but not exactly in the conservative way we have assumed. There's nothing we can do about that, and we can't see the future, so the actual CO₂ emissions reductions generated by your projects will vary from our estimates. We will, however, be receiving ongoing meter data from your projects that will tell us exactly how much electricity your share of each project generates, if applicable. With this information, we'll use the most recent data on the Environmental Protection Agency's E-Grid database to generate updated estimates of how much CO₂ that electricity kept out of the air. We'll post that information on our website and include it in your *NativeEnergy* newsletter. For farm methane projects, we will be receiving information regarding farm operations from each farm not less than annually, and will post updates to our estimates of the amounts of methane abated (in CO₂-equivalents) and the CO₂ reducing impact of the project's displacement of fossil fuel use.

Other Legal Provisions. EXCEPT AS SET FORTH EXPRESSLY IN THESE TERMS AND CONDITIONS, NATIVEENERGY MAKES NO WARRANTIES OF ANY KIND, WHETHER IMPLIED OR EXPRESS, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE (this disclaimer may not apply in your state). All our estimates regarding the quantity of emissions reductions represented by your RECs, thermal energy and/or methane abatement are subject to changes in law. In no event shall either party be liable to the other party for indirect, special, incidental or consequential damages of any kind, including, without limitation, loss of revenues or profits. In no event shall NativeEnergy be liable for any failure to perform to the extent caused by or resulting from any cause or circumstance beyond its reasonable control and which, by the exercise of due diligence, it could not have reasonably prevented or overcome. All damages shall be limited to actual damages only. The agreement set forth in these terms and conditions shall be governed by, and construed and enforced in accordance with, the laws of the State of Vermont, without regard to its provisions governing conflicts of laws. Any dispute arising under this agreement shall be subject to mandatory arbitration in accordance with the rules of the American Arbitration Association, and the arbitrator's decision shall be final and binding upon the parties.

If you have questions about our terms and conditions, please contact us at info@nativeenergy.com or call (800) 924-6826.