

## TERMS OF USE

*Valid from 20th July 2020*

CLIMAX PRODUCTION, simplified joint-stock company, with a capital of 2,000 euros, having its registered office 25, rue de Ponthieu in Paris (75008), registered under the Paris RCS number 879 906 584 ("CLIMAX"), publishes the website accessible in particular at the following URL address: <https://climax.how/> (the "Website").

For more information on editorial responsibility, we invite you to refer to the "legal notices" section of the Website, accessible here <https://climax.how/legal>.

### **ARTICLE : DEFINITION**

In these Terms of use (the "Terms"), the terms or expressions referred to below will have the following meaning:

**"Content"**: refers to all audiovisual, cinematographic, textual, literary, sound, graphic, typographic and photographic elements, software, databases, applications, animated images, multimedia games, etc. available on the Website, and in particular the audiovisual content offered by means of the Player;

**"Player"**: designates the IT tools for broadcasting and reading Content on the Website;

**"Service"** means the video on demand service operated under the registered trademark "CLIMAX" (deposit number 4642565) making available to the User Content offered in Streaming for strictly private use;

**"Streaming"**: refers to the transmission by CLIMAX of Content, without the possibility of downloading, within a buffer memory which makes it possible to start playing a video stream as it is received via the Player;

**"Territory"** means the whole world;

**"User"** means any adult natural person who has fulfilled the conditions of access to the Service in order to access the Content on the Website.

### **ARTICLE : PURPOSE OF THE TERMS**

The purpose of these Terms is to define the conditions under which CLIMAX will provide in the Territory to the User, who accepts it, access to the Content on the terminals listed in the article "Terms of access to the Content".

Any Order entails the full and complete acceptance of these Terms.

## **ARTICLE : CONDITIONS OF PLACING AN ORDER**

Prior to the validation of the Order, the User must complete the form reserved for this purpose in order to enter the data necessary to process his order (password, validated e-mail address, bank details, the name of the holder of the credit card, confirmation of majority and possibly the country / region of residence).

On the Order summary page, the User has the choice between confirming or canceling the order placed. Once the order is confirmed, it is deemed to have been accepted and the User no longer has the possibility of canceling the transaction corresponding to the Order.

After validation of the Order, the User pays the price of the Program by credit card or by direct debit (the "Order").

## **ARTICLE : PRICE AND PAYMENT CONDITIONS**

CLIMAX offers 3 main offers (the « Offers ») :

### **CLIMAX PREMIUM**

The Order of CLIMAX PREMIUM gives access to 32 episodes.

### **CLIMAX CLASSIC**

The Order of CLIMAX CLASSIC gives access to 22 episodes.

### **CLIMAX EDUCATION**

The Order of CLIMAX EDUCATION gives access to 19 episodes.

The prices of the Offers mentioned on the Website (and accessible in particular here <https://climax.how/offer>) are expressed in the currency corresponding to the country of the User (the "Price").

The Program Order is billed to the User on the basis of the rate in effect on the date of his Order.

The Prices may be modified at any time by CLIMAX without notice.

The Price is immediately due.

The User acknowledges that the communication of information relating to his bank card constitutes authorization to debit his bank account for the benefit of CLIMAX, up to the total Price of his Order.

The Price of the Order can be paid either by the User or by a third party payer, that is to say any adult or legal person who undertakes to pay, under the conditions defined in these Terms, the Price invoiced under this Order.

The User and the third party payer are jointly responsible for the payment of the entire Price.

As soon as the transaction has been definitively concluded, CLIMAX immediately sends the User, by electronic means, a bank receipt for his Order on the e-mail address he provided. The User has the option of uploading an invoice via his account.

The User recognizes and accepts that for the purpose of facilitating his Order, CLIMAX may keep copy of his bank details initially transmitted on the occasion of the first Order in order to allow him to place his subsequent Orders securely on the Website.

The Price is independent of the costs associated with the services subscribed by the User, if applicable, with a third-party operator such as an Internet access provider.

#### **ARTICLE : TERMS OF ACCESS TO CONTENT**

The User can have access to the Contents of CLIMAX in digital mode via the wired network, in particular ADSL or optical fiber.

##### **Terms of access to content on a PC/MAC**

The Service allows the User to receive the Content via the Internet on a PC or Mac. The User must have, on his own, a PC or Mac (with sufficient RAM capacity and equipped with compatible software versions and processor) and sufficient Internet speed.

##### **Content access methods on smartphone and digital tablet**

The Service allows subscribers to receive Content via Wi-Fi or mobile networks, on a compatible smartphone or digital tablet (with a plan including unlimited data consumption).

#### **ARTICLE : ENTRY INTO FORCE**

Payment of the Order Price allows the User to immediately access the Content of the selected Offer.

#### **ARTICLE : INTERRUPTION OF SERVICE**

CLIMAX cannot be held responsible in the event of temporary or permanent interruption, and which is not due to it, of all or part of the wired mobile network and / or the service of the User's internet service provider.

Likewise, CLIMAX cannot be held responsible in the event of disappearance, loss, deterioration and in particular of any damage likely to alter the materials necessary for the use of the Service.

Access to the Service is provided on a permanent basis, subject to maintenance and servicing periods, server update operations and other exceptional interruptions.

#### **ARTICLE : INTELLECTUAL PROPERTY**

All the contents of this present on the Website including, without limitation, graphics, images, texts, videos, animations, sounds, logos, gifs and icons as well as their formatting are contents protected under intellectual property rights , and in particular trademark law, design law and / or copyright and database rights in France and abroad.

The Services and their content, the general structure of the Website, of the Services, the editorial content, images, photographs, sounds, videos or multimedia, the software and databases used and all the other content presented on the Website and in the Services are protected by copyright, neighboring rights and / or the sui generis right of the database producer, and in general, by common law on civil liability as well as by applicable international conventions.

CLIMAX and / or its partners and / or third parties are the sole holders of the aforementioned intellectual property rights over all the content presented on the Website and in the Services.

The User undertakes to respect these rights.

As such, and under penalty of civil and / or criminal proceedings, unless expressly agreed by CLIMAX, the User agrees in particular not to:

- reproduce, represent, modify, publish, adapt on any medium whatsoever, by any means whatsoever, all the elements present on the Website and the Services;
- carry out any attack on the computer systems implemented for the provision of the Services, including any intrusion or attempted intrusion;
- carry out any reverse engineering operation of all or part of the Services;
- to compile, decompile or disassemble all or part of the Services;
- distribute and / or distribute copies of all or part of the Services;
- remove or delete any mention and / or any proprietary information present on all or part of the Services;
- resell, rent, sublet or otherwise transfer the Services to a third party.

Any use of the information, data and elements of the Website and the Services, for any reason whatsoever other than simple direct consultation on the Website by the User, is strictly prohibited, except with the prior written authorization of CLIMAX.

In any case, possible access to information on the Website and certain data cannot allow the User to consider that he can extract, substantially or not, and / or use outside the consultation of the Website, any data from the Website or any element of the Website. It is recalled that such extractions and / or uses are strictly prohibited.

Any acts of communication, reproduction and / or representation, in whole or in part, on any medium, of the distinctive signs or content presented on the Website, including information and / or data, without the prior written consent of CLIMAX, its partners or third parties, is prohibited and constitutes in particular counterfeiting and likely as such to engage the civil and criminal liability of its author.

More generally, any use outside the framework defined in these Terms would be assimilated to an act of counterfeiting, which exposes the User to legal, civil or criminal proceedings under the legislative and regulatory measures in force.

#### **ARTICLE : CONTACTS**

For any information, complaint or question relating to the functioning of the Website or the Service, the User can contact CLIMAX by the following means:

- by email: [contact@climax.how](mailto:contact@climax.how) ;
- by post: CLIMAX PRODUCTION, 25, rue de Ponthieu in Paris (75008).

## **ARTICLE : PROCESSING OF PERSONAL DATA**

When using the Services or the Website, you may be required to provide CLIMAX with personal data concerning you in order to use the Website and benefit from the Services (in particular and without this list being exhaustive, your email address, your majority, your bank details, your navigation data, your browser, your computer equipment identifiers such as the IP address). The processing of this data is necessary for the execution of the Services and / or the Website provided by CLIMAX.

The processing of this data is necessary for the execution of these Terms and is carried out in accordance with the regulations applicable to the protection of personal data and in particular, the Act n°78-17 of January 1978 on information technology, data files and civil liberties as amended and Régulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

This data is intended for CLIMAX staff and its subprocessor ensuring the provision of the Website and Services and, where applicable, its partners in accordance with the regulations applicable to the protection of personal data. Certain data may also be accessible to public bodies, auxiliaries of justice, ministerial officers, in order to comply with any law or regulation in force, to which CLIMAX would be required to respond (judicial or administrative request).

Your data is used for administrative and technical and commercial management purposes of the Services or the Website as well as for audience measurement, quality monitoring, payment, commercial prospecting purposes or for detection of fraud on CLIMAX rights and for the management of disputes.

CLIMAX may send you, in compliance with the regulations applicable to the protection of personal data, by email, information allowing you to better understand CLIMAX services as well as commercial proposals.

You authorize CLIMAX to collect data on the use of your use of the Services for the purpose of monitoring quality or optimizing your experience and in order to define typologies of users making it possible to recommend Content or products and services adapted to your needs and / or uses. You can object to this use by sending an email to the following email address: [contact@climax.how](mailto:contact@climax.how).

Your personal data, as well as information relating to your uses, are electronically archived by CLIMAX for the duration of these Terms and for the legal retention and limitation period.

Your personal data may be transferred to technical providers outside the European Union, in strict compliance with the conditions of protection provided by the regulations applicable to the protection of personal data.

CLIMAX may, in compliance with the regulations applicable to the protection of personal data, communicate your contact details to business partners, who may send you commercial offers.

In accordance with the applicable regulations, you have at any time various rights relating to the data concerning you (access, rectification, erasure, opposition, limitation to processing and portability). You must make your request by writing to [contact@climax.how](mailto:contact@climax.how) (by email to CLIMAX PRODUCTION, 25, rue de Ponthieu in Paris (75008) (by post) and accompanying it with proof of identity.

You have the power to define directives relating to the storage, erasure and communication to third parties of personal data concerning you after your death. You also have the option of file a complaint with the French National Commission for Data Protection (CNIL).

For additional information on the processing of personal data by CLIMAX, you can refer to its "Personal data protection policy", accessible here: <https://climax.how/data>.

#### **ARTICLE : COOKIES**

CLIMAX places cookies on your on the terminals listed in the article "Terms of access to Content". These cookies allow you to connect to the Website, use the Services and in particular the Player, establish audience measurements, and receive targeted advertising. You can refuse cookies by modifying your browser settings. However, refusing cookies may prevent you from benefiting from all the features of the Website or the Services.

For more information on cookies, CLIMAX refers you to its "Personal data protection policy", accessible here: <https://climax.how/data>

#### **ARTICLE : USE OF THE SERVICE**

The Contents are digital files protected by national and international provisions on copyright and neighboring rights.

Consequently, the Contents are exclusively reserved for private use. Any use outside this framework is strictly prohibited and in particular the resale, exchange, rental of digital files or their transfer to a third party.

The User has only a strictly personal right of use of these files limited to the indications.

Any use for purposes other than the framework herein exposes the User to civil and criminal proceedings.

Digital Rights Management (DRM) systems make it possible to control their use and aim to offer the User maximum flexibility in the use of the recordings while protecting the rights holders on contents. The User undertakes not to circumvent or undermine the digital file protection system necessary for the use of the Service, nor to encourage third parties to carry out such acts.

#### **ARTICLE : MINORS PROTECTION**

CLIMAX offers Content reserved for an informed adult public and likely to harm the physical, mental or moral development of minors. Access to the Content access is strictly limited to the User and is conditional on the prior entry of his password, which can be modified by him. The User is reminded that viewing the Content is likely to cause lasting disturbance to minors and that any person who would allow minors to have access to such Content is liable to criminal sanctions, particularly punished by the article L. 227-24 of the French Penal Code.

#### **ARTICLE : SANCTIONS**

CLIMAX reserves the right to close, suspend temporarily or permanently, without any prior warning, without any compensation and at its sole discretion, the User's account in the event of:

- insolvency;
- actions that contravene the provisions of the French Intellectual Property Code and other French legislations;
- failure of the User to any of the obligations incumbent upon him under these Terms.

The sanctions described above may be imposed without prejudice to any prosecution, criminal or civil, of which the User may be the subject of public authorities, third parties, or CLIMAX.

#### **ARTICLE : RESPONSABILITY**

CLIMAX declines all responsibility in the event of use of the Services not in accordance with these Terms.

CLIMAX is not responsible for any delay in the execution or for any non-fulfillment of its obligations resulting from the Terms which arise from a case of force majeure.

The use of the Services is under the full responsibility of the User and implies full recognition and acceptance by the User of the characteristics and limits of the networks, and more broadly of electronic communications services, in particular in with regard to technical performance, response times to consult, query, transmit or transfer information, risks of interruption or malfunction of networks or systems, risks linked to connection, problems linked to congestion networks or IT systems, the lack of protection of certain data against possible misappropriation and the risks of contamination by possible viruses circulating on networks and for which CLIMAX cannot be held responsible.

CLIMAX does not guarantee that the Services will operate without interruption, failure, or malfunction, or the absence of computer or other errors, or that the defects noted will be corrected, which the User expressly acknowledges.

CLIMAX cannot also be held responsible in particular in the event of errors, omissions, imperfections, interruptions, erasures, loss of information or data, transmission times, service failures, or if the User cannot access or access participate in the Services, to transmit their message or if the message does not reach CLIMAX or arrives illegible, impossible to process, late, or in the event of dysfunction, technical or other difficulties affecting the proper functioning of the Services, and related in particular but not limited to the congestion of electronic communications networks, an electrical power cut, the logical or material environment of the Services, a case of force majeure or a fortuitous event, etc.

CLIMAX can not in the same way be held responsible for any damage, material or immaterial caused to Users to their materials and equipment and to the data stored there, or for any direct or indirect consequences which may result, in particular on their personal activity, professional or commercial as well as damage of any kind (personal, physical, material, financial or other) occurring during the use of the Services, the User being invited to take all the necessary precautions regarding his materials and its data.

#### **ARTICLE : DISTANCE SELLING**

Due to the nature of the Service, i.e. non-material services delivered only by streaming and the execution of which began before the end of the 14-day withdrawal period with the agreement of the User and after expressly waiving their right of withdrawal, in accordance with article L.121-21-8 of the French Consumer Code, the User cannot exercise their right of withdrawal.

**ARTICLE : REIMBURSEMENT**

In the event that the User has not viewed via the Player more than 20 (twenty)% of the Contents of his Offer, the latter may request reimbursement of the Price from CLIMAX before the end of the 14th day following the purchase of the Service.

If the refund request made by the User is accepted by CLIMAX, the User will be reimbursed for the Price according to the same terms as those used when placing the Order.

**ARTICLE : APPLICABLE LAW – AMICABLE RESOLUTION**

The Website and these Terms are subject to French law.

Before any referral to a court, you agree to inform CLIMAX of any difficulty, by email to the email address [contact@climax.how](mailto:contact@climax.how) and to seek an amicable resolution of the dispute.

In the event of a discrepancy between the English language version and the French language version of these Terms, the French language version will prevail.