

**Terms and Conditions**  
for the use of the website [www.ubimet.com](http://www.ubimet.com) of UBIMET GmbH  
(from September 2014)

## 1. General Information

**1.1 Information about UBIMET GmbH and the Website:** [www.ubimet.com](http://www.ubimet.com) website offers you access to its interactive online websites, applications and services. The Website is operated by UBIMET GmbH, Donau-City-Straße 11, 1220 Vienna (Austria) (hereinafter referred to as "**We**", "**Us**", "**Our**" or "**Ours**" or "**UBIMET**"). These Terms and Conditions set out the rules which apply to the Website and its Services and Content that We make accessible to Users (referred to herein as "**You**", "**Your**", "**Yours**" or "**User**") as far as no other Terms and Conditions (e.g. Terms and Conditions of UBIMET GmbH – [www.wetter.tv](http://www.wetter.tv), Terms and Conditions of UBIMET GmbH – [www.unwetterzentrale.at](http://www.unwetterzentrale.at), etc.) apply.

You should read these Terms and Conditions carefully as, amongst other things; they clarify the limitations of Our liability to You and govern the agreement between You and Us. If You do not agree to these Terms and Conditions You must not use the Website, the Content or the Services.

**1.2 Acceptance of the Terms:** By using [www.ubimet.com](http://www.ubimet.com) or browsing any Service or Content You agree to be bound by the following General Terms and Conditions. In addition, certain additional rules are specific to individual Services, such as the Data Protection and Privacy Statement and any such rules shall be published on the Website and shall be deemed incorporated into the Terms and Conditions (together with any other schedules, appendices or exhibits incorporated by reference and links in these Terms and Conditions, collectively referred to herein as "**Terms**").

**1.3 Changes to Our Terms:** We reserve the right to review and revise the Terms. You will be deemed to have accepted any such changes if You use the Website, Services or Content subsequently to the posting of Our revised Terms. You should therefore check the Website from time to time to review the current Terms because they are binding on You.

**1.4 Defined Terms:** Words set out in these Terms starting with capital letters have the following meanings:

"**Content**" means all information, material and media, in particular text, data, artwork, graphics, photos, print, footage, software, sounds, music, recordings, videos and other moving and non-moving images and material created or contributed by Us and whether provided in stream, download, electronic data or any other form on or via the Website;

"**IPR**" means intellectual property rights which include, but are not limited to copyright, moral rights, registered designs, patents, trademarks, service marks, brands, design rights (whether registered or unregistered) semiconductor rights, database rights, trade secrets, rights of confidence and all other similar rights (including applications for the registration of any of the foregoing rights) and all other renewals and extensions thereof in any part of the world;

"**Services**" means the services such as the access, software, tools, computer programs (widgets) and Content made available to You via the Website;

"**Website**" means [www.ubimet.com](http://www.ubimet.com).

## 2. Copyright, trademarks and other intellectual property rights

Any Content and Services of the Website, i.e. all text, logos, trademarks, graphics, artwork, sounds, music and software (including the Access Software) is protected by copyright, moral rights, registered designs, patents, trademarks, service marks, brands, design rights, semiconductor rights, database rights, trade secrets, rights of confidence and other similar rights ("**IPR**"). All IPR subsisting in the Website and its Content or Services is either owned by Us or licensed to Us. All rights remain reserved to Us or, if provided by a third party, to such third party (and even if any such Content or

Service is not explicitly identified to be legally protected or registered, this does not imply any waiver by Us of applicable intellectual property rights with respect to any such Content or Service in its entirety or parts thereof). Even if any such trademark, name and logo are not explicitly identified to be legally protected or registered, this does not imply a waiver from Us as to applicable IPR in respect of any such trademark, name or logo. You may not reproduce, copy, post, republish, broadcast, record, transmit or edit any Content, materials or part(s) thereof without Our express prior written consent, nor do or attempt to do anything which infringes Our IPR or any IPR licensed to Us or owned by a third party. The same shall apply to ideas and concepts that the Website, any of its Content or Services is based on, even if not protected by IPR law. **Any reproduction of the Content, the Services or part thereof shall be expressly agreed to by Us and clearly marked by User with UBIMET.**

### 3. User's Rights and Obligations

**3.1 Your Rights for "Personal Use":** We grant You and other Users the right to access the Website and to use the Services and Content as made available from time to time. You may download or copy Content or retrieve Services from the Website for your private usage in form of non-commercial viewing, copying and sharing, where technically allowed (hereinafter "**Personal Use**"). Any further use of the Content or the Services, in particular any use for third parties' or Your own interests, activities, services or products, is strictly prohibited.

**3.2 Your obligations:** You agree that Your obligations in connection with the Website, the Content and Services include that:

(i) You must not copy, reproduce, republish, publicly display, translate, offer, transmit, upload or distribute in any way (including "mirroring") any part of the Website or any Content or Service to any other computer, server, Website or other medium for publication or distribution, except as expressly provided in these Terms or otherwise agreed to by Us in writing;

(ii) You must not use the Content or Services for commercial uses except as expressly provided in these Terms or otherwise agreed to by Us in writing;

(iii) You must not modify, alter or adapt any part of the Content or Services (each an "**Adaptation**") without Our prior written consent. In the event that We give Our consent to any Adaptation, You acknowledge and agree by requesting such that We shall obtain the irrevocable, worldwide, perpetual, non-exclusive, transferable, fully paid up and unlimited rights to exploit any Adaptation and all materials, whether provided by Us or not as well as all parts thereof, in particular, but not limited to, any edit, cut or excerpt and all other materials created by You or Your affiliates, employees, sublicensees, contractors or any other person or entity, pursuant to or related to the Content, Services or Adaptation, free of charge and in any known or yet unknown kind of use upon its creation;

(iv) You must not modify, decompile, reverse engineer, disassemble or create derivative works based on any software, on the Website;

(v) You must not (or attempt to) hamper, disable, interfere or attempt to interfere with the Website or any part of it (including its security-related features or any transaction as may be concluded on the Website) or in any way reproduce or circumvent the navigational structure of the Website, to obtain or attempt to obtain any Content or Service through any means other than as intentionally offered under the Website;

(vi) You must not use the Website, Content or Services for any unlawful purpose or for the publication of, linking to, issue or display of any unlawful material;

(vii) You shall comply with all applicable laws and regulations in using the Website, Content and Services and You agree not to infringe the rights of Us, Our affiliates, any other User or other third parties;

(viii) You shall observe and comply with any data volume limit which may apply to the Website, Content or Services;

**3.3 No advertising:** You are not permitted to use the Website, Content or Services for the purpose of advertising or for the purpose of displaying information in connection with any commercial activities, services or products, except as expressly provided in these Terms or otherwise agreed to by Us in writing.

**3.4 Modifications to the Service:** We reserve the right to review, revise, modify, improve or discontinue the Website, Our Service or Content from time to time, without giving You prior notice. Such content-related and technical reviews and any maintenance work in relation thereto may include without limitation, the extension or modification of the subject areas made available through the Website and the adaptation of the technical formats comprising the Services or the Content. Access to the Website and its Services or Content may therefore be suspended temporarily or permanently and without notice in the case of system failure, maintenance, review or repair, or for reasons beyond Our reasonable control. We shall not be liable if, for any reason, the Website, any Content or Service is unavailable. You are aware that We may cease the provision of the Website, its Content or Services at any time. In any event We shall not be obliged to provide maintenance or support services.

#### **4. Indemnification**

You agree to fully indemnify and hold Us, Our affiliates, officers, directors, shareholders, employees and agents harmless in respect of all liabilities, damages, claims, actions, expenses, demands or costs (including any legal fees in relation to such claim or damages) incurred by Us arising from, or in connection with: (i) your use of our Services; (ii) any actual or alleged violation or breach by you of these Terms of Use; (iii) any actual or alleged breach of any representation, warranty, or covenant that you have made to us; or (iv) your acts or omissions. You agree to cooperate fully with us in the defense of any claim that is the subject of your obligations hereunder.

#### **5. Disclaimer and Limitation of Liability**

**5.1** We make no express or implied representations or warranties of any kind (and all representations and warranties are expressly disclaimed to the fullest extent permitted under applicable law) with respect to the accuracy, quality, workmanship, timeliness (including in respect of delivery), operability, merchantability, availability, or completeness of the Website, Services, Content or towards the non-infringement of industrial or intellectual property or any other rights of third parties or the fitness of the Content for a particular purpose.

**5.2** You acknowledge and agree that You access and use the Website, Content and Services at Your own risk on an "as is" and "as available" basis and that We are not liable for any errors or omissions in any Content, Service, any availability or delivery (including without limitation whether caused by interruption, deletion, delay in operation, transmission, communication line, errors, omissions or computer virus, trojan horses, or other harmful code or script).

**5.3** We do not warrant that the Website, the Content or the Services will be error-free or uninterrupted or that defects will be corrected. We reserve the right at any time and without notice to remove the Website, Content or Services (or part thereof) for whatever reason, or to interrupt the operation of the Website, Content or Services (or part thereof) as may be necessary to perform routine or non-routine maintenance, error correction or other changes. We sometimes provide hyperlinks and/or advertisements to other Websites that are not owned or controlled by Us. We accept no responsibility or liability for any material supplied by or contained on any third party Website which is linked from or to Our Website. Neither are We responsible for any third party's Websites and You visit such Websites entirely at Your own risk.

**5.4** Subject to paragraphs 5.5 and 5.6 below, You agree that We, Our and Our affiliates' employees, directors, distributors, licensors and agents shall not be liable, whether such liability arises in contract, tort (including without limitation negligence) or otherwise, for any (i) loss of business, opportunity, use, profit, anticipated profit, contracts, revenue, goodwill or anticipated savings or (ii) loss of data or use of data, whether direct, indirect, consequential or special and whether arising in connection with the use of or attempt to use the Website, the Content or the Services, the inability to use these items, interruption or termination of Our provision of the Website, Content or Services and even if We have been advised of the possibility of such damages occurring.

**5.5** In any event, to the fullest extent permitted by applicable law, We shall not be liable for any damage or loss, whether direct or indirect, that You may suffer as a result of a failure by Us to deliver the Content or Services for any reason, including but not limited to access delays or interruptions, data non-delivery or mis-delivery, failure to deliver the Content or Services due to server failure or any event of force majeure including without limitation, acts of God, war or terrorism, breaches of security or unauthorised use of personal data arising from hacking and/or failure or lack of reception of networks. The exclusion set out in this section shall apply even in the event that the loss or damage suffered by You was or should have been foreseen by Us and/or You told Us of the risk of You suffering the loss or damage in question.

**5.6** Nothing in these Terms shall limit or exclude Our liability for death or personal injury caused by Our negligence, for fraud or fraudulent misrepresentation, or for any other type of liability which cannot be limited or excluded by applicable law.

**5.7** Nothing in these Terms shall affect any statutory rights which You may be entitled to as a consumer.

## **6. Severance**

Each provision of these Terms shall be constructed separately and independently. The effectiveness of these Terms shall not be impaired if any provision of these Terms should be completely or partially invalid or unenforceable. In this case, such provision shall be limited or eliminated to the minimum extent necessary and replaced with a valid provision that best embodies the intent of these Terms, so that these Terms remain in full force and effect.

## **7. Governing Law and Jurisdiction**

These Terms shall be governed by and construed in accordance with Austrian law. All disputes arising out of or in connection with these Terms, including any questions regarding its existence, validity or termination, shall exclusively be settled by the court responsible for commercial matters in Vienna's First District in accordance with the law in force in Austria, without reference to its conflicts of law provisions. The application of the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980, shall be excluded.