

General Terms and Conditions of UBIMET GmbH

1. Area of application

- 1.1. These terms and conditions of UBIMET GmbH, Bahnhofstraße 12, 76137 Karlsruhe (referred to below as "**UBIMET**") apply to all contracts between the UBIMET and the customer for UBIMET services, especially
 - for all individual agreements, framework agreements, individual orders or other contracts (referred to collectively as "**Agreements**");
 - for registration and use of UBIMET's online portal (the "**UBIMET Portal**") or the UBIMET online store at <http://www.weather-consult.com>;
 - for all contracts that are concluded between UBIMET and customers registered at UBIMET's online store through UBIMET's online store.
- 1.2. UBIMET services consist of B2C and B2B services. Some services are aimed only at entrepreneur as defined in §14 BGB (referred to below as "**Companies**"), i.e. natural or legal persons or private companies with legal capacity, which act when concluding a legal transaction in exercising their trade, business or profession; in doing so a legal partnership is a partnership, which is vested with the capacity to acquire rights and incur liabilities.
- 1.3. Application of the customer's own terms and conditions is hereby contradicted, unless otherwise UBIMET expressly consents to their application in writing. These terms and conditions also apply exclusively, if UBIMET performs the service without specific reservation with knowledge of the customer's terms and conditions that are contrary or supplemental to or deviate from these terms and conditions.
- 1.4. Individual agreements entered into with the customer in individual cases (including side agreements, supplements, and amendments) shall take precedence over these Terms and Conditions in the event of disputes. Such individual agreements must be based on a written agreement or a written confirmation by UBIMET.

2. Services

- 2.1. As a weather service provider, UBIMET provides worldwide professional weather expertises, forecasts and databases, statistics, analyses, including wind and location analyses and other related services (referred to below as "**Data**") for the customers.
- 2.2. Customers may choose the services they require from UBIMET's range and conclude the appropriate agreements in accordance with these terms and conditions, for example an allotment or subscription contract, whereby the agreed services can be accessed or authorised via the UBIMET Portal or through direct contact with the account manager. The Data are, as a function of the respective agreement, made available on the UBIMET Portal for retrieval (pdf download) or sent to the customer online, by fax or regular mail.
- 2.3. Special conditions for the UBIMET online store:
After successfully registering (via entering name, address, email, facsimile, telephone number) for UBIMET's online store, companies also have the opportunity to place orders for and access the services provided online via their customer account. The Data transferred via the online store is provided to the customer in their customer account at UBIMET's online store for access, printing and download (as a pdf). UBIMET provides the service by making the Data available for access through the customer account and notifying them by email. In addition, during the term of the user agreement for UBIMET's online store customers have access to an archive of their account, in which the Data provided are stored. Customers can view, print and save them as well as carry out additional analyses independently online based on specified parameters.
- 2.4. The exact scope of services results from the contractually agreed performance in each case. With contracts concluded through UBIMET's online store the significant features of the service are based on the product description defined by UBIMET in each case.

- 2.5. Access to the UBIMET Portal and UBIMET's online store is offered subject to availability. An availability of 100 per cent is technically impossible to achieve. The provider shall strive, however, to maintain the UBIMET Portal and UBIMET's online store as consistently available as far as possible. Maintenance, security or capacity issues and events that are beyond UBIMET's control (disruptions in public communication networks, power failures, etc.), may lead to malfunctions or temporary shutdowns of the portal.

3. Conclusion of the contract

- 3.1. Product and service descriptions and UBIMET price lists are not binding except of those listed in the UBIMET online shop unless they are part of a contractual agreement. Contracts are concluded by offer and acceptance in accordance with these terms and conditions.
- 3.2. Special terms in the UBIMET online store (in particular for the "Wind Potential Analysis"):
 - 3.2.1. In order to place an order at UBIMET's online store the account must be properly registered and activated. Registration and activation are free; customers who have registered and activated their accounts are able to place orders through the UBIMET online store. Costs are incurred only for actual orders placed through the UBIMET online store.
 - 3.2.2. Once registration is successfully completed, the user agreement for the UBIMET online store comes into effect in accordance with these terms and conditions. Those interested in registering may do so either by email (offer and acceptance) or directly online. Online registration for the Wind Potential Analysis can be completed as follows:
By following the "Request" registration link the prospective customer arrives at the input screen and can enter registration details online (name of company, surname and first name, user name and password, email, tax ID number, etc.). The data entered must be truthful and complete (if it involves mandatory information). UBIMET reserves the right, but is not obliged to verify the information. Sending the registration details by clicking on the "Registration" button constitutes a binding offer by the visitor to conclude the user agreement, which UBIMET can but does not have to accept. Before sending the registration information the prospective user has the option of correcting any details using standard keyboard functions, as long as it has not yet been sent. Receipt of the customer's offer is immediately confirmed electronically (non-binding written confirmation of receipt of entry). The contract between UBIMET and prospective users regarding the use of UBIMET's online store only comes about when a confirmation email of acceptance is received from UBIMET. When the confirmation email is received and access by the customer is activated via the link provided, registration has been successfully completed and the user agreement is concluded in accordance with these terms and conditions.
UBIMET is entitled to reject prospective users; a right to register does not exist. To use the fee-based Wind Potential Analysis service, the customer will receive a separate activation email from UBIMET (by offer and acceptance). After activation, customers may choose a user name and password to use the paid service in UBIMET's online store.
 - 3.2.3. The product descriptions and prices in UBIMET's online store are binding. Customers may accept the UBIMET offer to complete the contract by going through the individual ordering stages online and then sending the order by clicking the "Request" button. Clicking the "Request" button constitutes binding acceptance by the customer, whose access to UBIMET establishes the contract subject to these terms and conditions. Before sending the acceptance customers have the option of correcting any details using standard keyboard functions, as long as it has not yet been sent. In addition, all details are displayed once again in a confirmation window before the acceptance is returned and becomes binding. Receipt of the customer's acceptance and therefore conclusion of the contract is confirmed by the following: if the actual information in the customer's request is correct, an online charge is generated, the result presented and an invoice sent at the same time. If the charge cannot be generated, online billing and invoicing do not take place.

- 3.2.4. The contract wording is filed by UBIMET and customers can access it by sending a request via their password-protected account. Customers can print and permanently store the terms and conditions.

4. The customer's particular obligations

- 4.1. Customers shall ensure that unauthorised access to the transferred Data by third parties is excluded. The Data are intended exclusively for the customer's own use.
- 4.2. Customers are responsible for maintaining the secrecy of their access Data (in particular the password) to the UBIMET Portal or UBIMET's online store and any other password-protected areas. Disclosing them to third parties is prohibited. Customers shall inform UBIMET immediately if there is any indication that access is being or has been used by third parties.
- 4.3. Customers must ensure their designated fax, email and postal address are correct so they can receive Data sent by UBIMET at their respective address. In particular, when using spam filters, customers shall ensure that all emails sent by UBIMET can be delivered.
- 4.4. Misuse of the UBIMET Portal is prohibited and authorizes UBIMET to terminate the contract without notice. We reserve the right to take other measures and enforce claims against customers in cases of misuse.
- 4.5. Compliance with system requirements on the customer side is the customer's responsibility. UBIMET technical specifications must be observed and will be provided to customers before the contract is concluded.

5. Granting of user rights

- 5.1. UBIMET grants the customer a non-exclusive and non-transferable, temporally limited to the term of this Agreement, geographically limited to the contract territory and substantively limited to the purpose of this Agreement, right to use the provided services (Data). Any additional use beyond these limitations, particularly the transfer to third parties of the rights of use that have been granted, and any change, adaptation and/or publication or disclosure of the Data, in whole or in part without the written consent of UBIMET are not permitted.
- 5.2. If the customer violates the rights of use granted to him, UBIMET shall have the right to terminate this Agreement for cause. In addition, UBIMET shall be entitled to seek liquidated damages of up to a local currency equivalent of EUR 10,000 (in words: Euro ten thousand) for each individual violation under this Agreement. The customer has the right to prove - and shall bear the burden of proof - that exceeding the limits of the rights of use did not cause any damages or only caused lesser damages. UBIMET reserves the right to take judicial and non-judicial action if actual damages are higher, irrespective of its demand for liquidated damages and, if appropriate, in addition to such demand.

6. Prices and payment terms

- 6.1. The prices stated by UBIMET are net prices in euros and are quoted plus VAT. Unless otherwise agreed, UBIMET's current price list applies on the date the respective contract is concluded, or in the case of ordering at the online store the published prices on the date the contract was concluded in the online store on the UBIMET Portal.
- 6.2. Unless otherwise agreed, the invoiced amount is due for payment 10 days after receipt without deductions.
- 6.3. For orders in UBIMET's online store the following additional rules apply: Provided the description of the particular product on sale does not specify otherwise, UBIMET offers the following payment option:
on account
If the payment on delivery option is selected the price to pay is due after the Data has been provided for access by UBIMET and invoiced. In this case, the price is due for payment within 10 days of receipt of the invoice without deduction, unless otherwise agreed.
- 6.4. A payment is considered received as soon as the counter value has been credited to one of UBIMET's accounts. In case of default, UBIMET shall be entitled to demand interests at a rate 10 percentage points above the base rate as well as demand and collection costs. UBIMET's legal rights in the event of a customer's default in payment remain unaffected. As long as invoices are overdue, incoming payments are deducted first from any costs and interest, then from the oldest debt.

- 6.5. UBIMET may require the amendment of the price, for the first time at the beginning of the second contract year, if the consumer price index published by the German Federal Statistic Office has changed on basis of 2014 = 100 towards the index published for the month of conclusion of the contract. Benchmark therefore shall be the change of the index, as far as this is required to standards of reasonableness. The amendment of the price will take effect at the month following the month in which the amendment was required. This provision is applicable mutatis mutandis on each additional index change towards each last change of the price. If the consumer price index determined by the German Federal Statistic Office is not continued and replaced by another index during the contractual period the index shall be used accordingly for the indexing. In this case the parties shall agree on a new economically corresponding indexation clause.
- 6.6. For the provision of Data on the UBIMET Portal or UBIMET's online store UBIMET bears the costs of making the Data accessible online and the customer pays the cost of retrieval.

7. Contract term, termination

- 7.1. The term of the contract depends on the agreement made with each customer. Unless otherwise agreed, the contract, as long as it involves an ongoing obligation, is concluded for an indefinite period and can be terminated by either party by giving six months' written notice towards the other party.
- 7.2. Special terms for user agreement in UBIMET's online store:
- 7.2.1. If a customer has registered for UBIMET's online store, both parties may terminate the contract for use of UBIMET's online store at any time by giving 30 days' written notice.
- 7.2.2. If termination of the user agreement is effective and if the customer has ordered Data through the online store before the termination date but they have not yet been provided to the customer at this time, UBIMET shall forward the Data to the customer by email or by fax.
- 7.3. When the user agreement for the UBIMET Portal or the UBIMET online store ends, the customer account is deactivated and the customer no longer has access to the portal or store.
- 7.4. Either Party shall have the right to terminate the Agreement early if and to the extent there is cause that makes further collaboration seem unreasonable. There shall be cause, in particular, in the following cases:
- if customer violates Section 5 of these Terms and Conditions despite a warning;
 - if customer does not meet its payment obligations despite being provided a 14-day grace period;
- Irrespective of the examples of good cause set forth in Section 7.4, the Parties agree that, even in cases that constitute "good cause" within the meaning of Section 7.4, the relevant contracting Party shall be granted a grace period of 10 (ten) business days. The period shall begin to run when one contracting Party gives the other contracting Party written notice that it has good cause to terminate the Agreement. The foregoing applies exclusively to cause that is of such a legal nature that it can be rectified. The foregoing shall not affect any claims for compensatory damages.

8. Liability

- 8.1. This Agreement does not establish rights of any kind in favor of end-customers of the customer, or third parties. If such persons raise claims against UBIMET in connection with the services subject of this Agreement, on whatever legal ground, customer shall indemnify UBIMET and hold it harmless against such claims.
- 8.2. UBIMET shall provide all services in accordance with the recognized rules of meteorological science and technology. Due to the numerous factors that influence the weather, actual weather conditions cannot be reliably forecast in all cases. Likewise, it is not always possible to fully understand weather conditions in retrospect. Rather, the services of UBIMET are meteorological forecasts based on meteorological experience with certain probabilities. Deviations from actual weather conditions cannot be avoided.
- 8.3. Therefore, UBIMET assumes no liability of any kind in connection with any failure of the meteorological Data to match the weather conditions actually occurring towards the customer or affiliated third parties.
- 8.4. UBIMET explicitly advice the provided information is not deemed as an official severe weather warning. In case customer requires or is obligated to receive an official severe weather warning, the service provided by UBIMET to the customer may be not meet this requirement.

- 8.5. If and to the extent that UBIMET must rely on data from third parties to provide its services, UBIMET shall check the plausibility of this third party data in accordance with the recognized rules of meteorological science and technology. UBIMET assumes no further liability and/or makes no further warranty of any kind with respect to this data. The same applies to the (timely) availability of the third party data itself, as a prerequisite for providing information to others. With respect to the selection of the third party data supplier, UBIMET shall be responsible solely for the selection of the company in accordance with Section 8.8.
- 8.6. UBIMET makes no warranty and/or assumes no liability of any kind for any failures, interruptions, omissions, faulty data transfers, or other disruptions or impairments of the channels of communication caused by technical difficulties (including necessary maintenance time) if and to the extent that this is not the responsibility of UBIMET under Section 8.8. With respect to the company hired for communications and data transfer purposes, UBIMET shall be responsible solely for the selection of the company in accordance with Section 8.8.
- 8.7. For the sale and/or delivery of meteorological measurement readings and forecast Data § 377 of the Commercial Code (Handelsgesetzbuch), as amended, shall apply. The services must be investigated by the customer after the sale/delivery has been made. Claims with respect to any defects that have been found or that could have easily been found with the proper attention must be made to UBIMET in writing promptly after the services have been provided. Otherwise Section 8.11 shall apply.
- 8.8. UBIMET shall be liable for losses only if wrongful intent or gross negligence are proven, and such losses shall be limited to typical, foreseeable contract damages due to violations of material obligations. Apart from and/or outside of this, customer shall have no claims for damages, of whatever legal nature, against UBIMET unless and to the extent that mandatory law provides otherwise.
- 8.9. If and to the extent legally feasible, all claims and causes for actions against UBIMET for all losses culpably caused during the term of this Agreement shall - cumulatively - be limited (i) in case of flat fee agreements to the half of the amount of the agreed fees and (ii) in case of agreements with recurring charges limited to the amount actually paid by the customer for the services provided by UBIMET during the six months prior to the occurrence of the first claim or cause of action with a local currency equivalent of Euro 20,000 (in words: Euro twenty thousand) whichever is less. If and to the extent legally feasible, there shall be no compensation for (direct or indirect) consequential damages, loss of data, savings not realized, lost interest and expenditures made in vain and lost profit.
- 8.10. The liability restrictions listed in Section 8.8 and 8.9 do not apply, however, to claims due to malice, injury to life, limb or health, insofar as the product liability act (Produkthaftungsgesetz) is applicable.
- 8.11. Customer shall give UBIMET prompt notice of any disruption or defect of the provided services in writing or by e-mail, no later than three days upon its awareness of the disruption or defect, or otherwise lose its right to raise warranty or damage claims.
- 8.12. If the customer asserts timely claims against UBIMET for deficient performance (Section 8.11), customer's exclusive remedy shall be to reduce the portion of the fee attributable to the deficient performance. Other warranty claims, including but not limited to rescission (Wandlung) shall be excluded. The statute of limitations for claims for deficient performance shall be six months.
- 8.13. The rescission of the agreement based on error (Irrtum) shall be excluded.

9. Offsetting, retention, assignment

- 9.1. The customer is only entitled to compensation if the counterclaim is undisputed, legally established or acknowledged in writing by UBIMET. The customer's rights to retention and to refuse performance are excluded, unless UBIMET does not dispute the underlying counterclaims or these have been legally established.
- 9.2. Customer shall not have the right to assign any claims arising out of this Agreement he has towards UBIMET. UBIMET shall have the right to assign this Agreement and all rights and obligations that may be derived from it to a third party. Customer hereby gives its irrevocable consent to this assignment in advance.

10. Confidentiality

The entire content of the order form/offer are confidential for both contracting Parties. The Parties shall procure that its employees/contractors, advisors and/or other third parties acting for the respective Party will be bound by this confidentiality obligation.

11. Data Protection

- 11.1. Collection, processing and/or use of personal data will only be executed with the client's consent or if it is permitted by law. Permitted by law is in particular the processing of personal data in connection with the performance of a contractual obligation by UBIMET toward the client.
- 11.2. All information to Data Protection can be found in our Data Policy on the website www.weather-consult.com

12. Supplemental Agreements, amendments, changes, interpretation

- 12.1. This Agreement contains the entire agreement between the Parties about its subject matter and any concluded previous understanding, agreement, representation or warranty, verbal or written, relating to that subject matter is replaced by this Agreement and has no further effect.
- 12.2. Amendments or supplements to this Agreement must be in writing to be valid. This also applies to any deviation from the written form hereby agreed-upon, so that there can be no presumption of tacit deviation from this requirement for validity.
- 12.3. If individual provisions of this Agreement or Terms and Conditions are or become invalid or unenforceable or the Terms and Conditions are deemed as incomplete, the other provisions of these Terms and Conditions shall be unaffected and shall remain valid and enforceable. Invalid or unenforceable provisions shall be interpreted and amended, by mutual consent, with valid and enforceable provisions that come closest to the intended economic outcome of the Parties.

13. Changes to terms and conditions; applicable law; jurisdiction, contract language

- 13.1. UBIMET reserves the right to make changes to these terms and conditions. Customers will be notified of changes by email six weeks before they take effect. Customers are entitled to dispute these changes within four weeks of receipt of the notification email. This objection must be made in writing (e.g. email). The changes are deemed accepted and binding if customers agree to the changes or have not objected to them within a period of four weeks. UBIMET refers especially in the confirmation email to these legal consequences and the option to object.
- 13.2. The law of the Federal Republic of Germany applies while excluding the laws on the international sale of goods and conflicting laws.
- 13.3. If the customer is a merchant, legal entity under public law or a separate asset subject to public law, the exclusive place of jurisdiction is Karlsruhe. The same applies if the customer has no general jurisdiction in Germany or the EU or his domicile or normal place of residence are unknown at the time legal action is taken.
- 13.4. The contractual language is German. If these terms and conditions are provided in another language, this is only for information purposes. In case of contradictions between the translation into another language and the German version or in questions of interpretation the German version alone is applicable.

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