

General Terms and Conditions for Deliveries and Services

termed "T&C" in the following
meteocontrol GmbH, Augsburg, Germany
(September, 2017)

1. General

- 1.1 All deliveries and services of meteocontrol GmbH are solely subject to these General Delivery Conditions. Any written individual agreements take precedent over these T&C.
- 1.2 General terms and conditions of the customer/user are not part of this contract, even if meteocontrol GmbH has not expressly objected to their validity.

2. Conclusion of contract

- 2.1 Technical information, cost estimates and other information do not constitute binding offers, and are merely requests for the submission of a quotation by the customer.
- 2.2 meteocontrol GmbH reserves its proprietary rights and copyrights regarding any cost estimates, diagrams, illustrations and other documents provided by meteocontrol GmbH within the context of the contractual relationship; without express prior written consent from meteocontrol GmbH, the customer is not entitled to reproduce, copy or provide these documents to third parties, or otherwise circulate them or to use these materials in a manner that is in opposition to their interests. If an order is not made with meteocontrol GmbH, these materials are to be returned immediately upon request.
- 2.3 A contract is concluded via written order confirmation from meteocontrol GmbH or when meteocontrol GmbH carries out the order. An order confirmation or shipment that deviates from the order is considered a new order which is either expressly accepted by declaration by the customer or implicitly accepted by acceptance of the product.

- 2.4 The order confirmation from meteocontrol GmbH is authoritative with regard to the scope of its shipments and services.

Any changes to the scope of the shipment and services and any resulting price and deadline changes are to be immediately and mutually confirmed by the respective contractual parties. Until the parties have reached an agreement on the changes, they shall abide by what was originally agreed upon and continue to carry out the contract.

3. Prices and payment terms

- 3.1 All prices listed are net prices in euros plus the respective, legally applicable sales tax. Any additional costs for packaging and special packaging requested by the customer will be billed separately.
- 3.2 All taxes, custom duties, fees as well as import and export levies incurred in conjunction with the shipment are borne by the customer.
- 3.3 The shipment is carried out in accordance with Incoterms 2010 (EXW).
- 3.4 If there are more than four months between conclusion of contract and shipment/services and if costs have changed, meteocontrol GmbH is thus entitled to a price adjustment. Prerequisite for this is that the delay of the shipment/services was not the fault of meteocontrol GmbH.
- 3.5 Prepayment is generally required of new customers.

For orders with a net order sum greater than €50,000 euros, 30% is to be paid as advance payment upon order placement plus proportionate sales tax.

- 3.6 Payment of invoices is due and to be paid within 14 days of the invoice date without deduction. In case of cessation of payment by the customer as well as in case of application for or initiation of an insolvency proceeding on the customer's assets, any unpaid invoices are immediately due to be paid.
- 3.7 For international deliveries, meteocontrol GmbH reserves the right to require payment via letter of credit or documents against payment.
- 3.8 Counterbalancing is only permissible with an uncontested and legally established claim against meteocontrol GmbH.
- 3.9 Upon delay of payment, meteocontrol GmbH is entitled to charge interest for delay at a rate of 9 % p.a., to take back the delivered product(s) and to refuse any further delivery. The contractual payment obligations of the partner remain intact. meteocontrol GmbH reserves the right to assert higher damages due to delay.
- 3.10 For payment of an order including services according to expense, the respectively applicable meteocontrol GmbH price list applies.
- 3.11 For provision of Internet-based services, there is a separate, written compensatory agreement between meteocontrol GmbH and its sales partners.

4. Delivery and service periods

- 4.1 The agreed upon delivery and service periods are applicable in an approximate manner and are lengthened appropriately if they cannot be adhered to due to reasons for which meteocontrol GmbH is not responsible.

If delivery periods are specified, the date of the notification of readiness for dispatch is decisive for compliance with the delivery period.

- 4.2 If the customer is in default of acceptance or if the customer infringes upon any other cooperation obligations that lead to delays, then meteocontrol GmbH is

entitled to invoice any damages thus incurred, including any possible additional expenditures. meteocontrol GmbH reserves the right to any further claims. The danger of a general price decline or deterioration of products to be delivered devolve to the customer as soon as the customer is in default of acceptance or is otherwise negligent in fulfilling essential cooperation obligations.

- 4.3 Delivery and service delays due to force majeure are not the responsibility of meteocontrol GmbH even where obligatory time periods and deadlines agreed upon are concerned. Such entitles meteocontrol GmbH to postpone the delivery by the duration of the interference plus appropriate lead time. Beginning and end of such interference will be communicated to the customer by meteocontrol GmbH in timely fashion.

If the "force majeure" event has a duration greater than 60 (sixty) days, meteocontrol GmbH is then entitled to withdraw from the contract. This applies to the customer as well.

Each party bears their own additional expenses that arise due to delivery, acceptance delay due to force majeure or that arise or shall arise due to withdrawal from contract because of force majeure.

- 4.4 meteocontrol GmbH reserves the right to carry out partial shipments, provided these are reasonable for the customer.

5. Customer contributory obligations

5.1 meteocontrol GmbH shall be exempted from its service obligation if the customer — where necessary — unpunctually or deficiently fulfills the following obligations to cooperate, free-of-charge for meteocontrol GmbH. meteocontrol is entitled to determine a time period for the performance of the act of cooperation and to withdraw from the contract in the event of non-performance within the time period.

- a) The customer is obligated to inform meteocontrol GmbH regarding relevant national laws, ordinances, administrative regulations and any other pertinent regulations in a timely fashion and to obtain all necessary authorizations from the responsible authorities in a timely fashion and at its own expense.
- b) The customer is obligated to support meteocontrol GmbH in obtaining pertinent information and to make available to meteocontrol GmbH all their technical documents, calculations and other information which meteocontrol GmbH requires for execution of the order. The customer is responsible for ensuring such is complete and correct.

6. Software licenses

6.1 meteocontrol GmbH grants the customer the non-exclusive right to use the delivered software and related documentation exclusively for the purpose agreed with the customer. The right to use is restricted to the time period agreed upon. In absence of such an agreement, the right to use is unrestricted to any period of time. The customer is not authorized to reproduce, change, add to, compile or recompile the software in whole or in part. Excluded from this are copies for archiving or backup purposes or for purposes expressly allowed in writing by meteocontrol GmbH; all copies must contain the same copyright notices as the originals.

6.2 The above-mentioned provisions also apply to any possible software or documentation changes or additions. In case of relinquishment of delivered items, the customer will impose the above-mentioned obligations upon the third party.

6.3 The relinquishment of the software is effected exclusively in machine readable form (object code) and without source code.

7. Portal business

7.1 Via the DSC (Data Service Center) Internet portal, meteocontrol offers technical solutions which enable measurement and meter data from energy generation systems to be administered using Internet-supported services and the technical operation management to be carried out.

7.2 meteocontrol GmbH shall be authorized at any time to make technically required changes and to perform maintenance work on the DSC that cannot be delayed. Furthermore, the company shall be authorized to limit operations of the DSC during the time required to make the changes or to shut it off for a short period of time. While performing the changes, the company shall make a concerted effort to maintain the service for the user at the time that the changes to the software in use are being made. meteocontrol GmbH shall do everything in its power to avoid making any changes to the system during times of high utilization (turn of the month, Monday morning).

7.3 The customer assures and pledges that the image data (eg, photos of the system) or other data used by the customer do not infringe upon copyright or ancillary copyrights, industrial property rights (eg, brands, patents, usage and design patents), other rights (eg, right to one's own image, name usage rights or personal privacy laws) nor is immoral, unconstitutional, pornographic or harmful to minors.

7.4 The user him- or herself is fundamentally responsible for the correctness of

measurement values. Values which were transmitted to the DSC are displayed by the DSC. A plausibility test is carried out simply within an error detection context and can be adapted and expanded by users with corresponding user rights.

- 7.5 The user declares express agreement with meteocontrol being permitted to save, process and use the measurement data of the system in anonymous form, inasmuch as this is necessary for meteocontrol purposes, namely consultation, advertising, market research or for demand actuated design of the services provided by meteocontrol.
- 7.6 The user is prohibited from accessing the websites of the DSC in an automated manner. The use of web crawlers is thus forbidden. meteocontrol GmbH reserves the right to block suspicious IP addresses immediately. If the customer provides relevant evidence, it will be possible to reconnect. If operation of the DSC is impaired by web crawling, meteocontrol GmbH reserves the right to claim for damages.

8. Warranty and liability

- 8.1 The warranty period covers a period of 24 months and begins from the time of delivery.
The warranty shall not apply to certain cases, including:
- Instances in which the customer is at fault (e.g., surge damage, errors made during subsequent intervention, errors in the customer's operating systems or third-party products)
 - Instances of force majeure.

The warranty applies solely to the hardware and software in the version delivered by meteocontrol GmbH. Defects which are due to subsequent interference by the customer are not covered by the warranty. The same applies to defects of the customer's operating system or third-party products. In the case of a defect in the software supplied by meteocontrol GmbH, the customer is, in principle, only entitled to have the defect rectified by meteocontrol GmbH within the framework

of the supplementary performance. If the rectification of the defect by meteocontrol GmbH has failed, the customer is entitled – without prejudice to any claims for damages – to exercise the right of withdrawal or the right to reduction.

- 8.2 Notices of defects - via registered letter, fax transmission or via e-mail with a read-receipt - regarding observable defects, incorrect deliveries and missing items can only be taken into consideration when received by meteocontrol immediately after receipt of goods.

Notices of defects of not obviously observable defects must be immediately declared in writing following discovery. The customer bears the burden of proof regarding observability of any defects.

In case of an outwardly damaged or incomplete shipment, the customer must immediately lodge a complaint with the parcel service / forwarding agent upon receipt of the product.

In case of untimely and improperly carried out declaration of defects, the warranty does not apply.

Returns and repairs, which are sent back to meteocontrol, must be delivered free of charge and DDP (delivered duty paid). Otherwise, meteocontrol cannot accept the delivery.

- 8.3 meteocontrol GmbH is entitled to decide to remove defects free of charge by either eliminating them or by delivery of non-defective product(s). If the supplementary performance fails, the customer may – without prejudice to claims for damages and claims for reimbursement of expenses – withdraw from the contract or reduce the remuneration appropriately.

Further claims against meteocontrol and its vicarious agents in connection with a defect are excluded.

If the type of supplementary performance desired by the customer results in disproportionate expenses or costs, the

chosen type of supplementary performance can be refused by meteocontrol.

- 8.4 All data of the customer shall be kept by meteocontrol GmbH for a time period of 3 months after receipt of the notice of termination of the contractual relationship for the customer and held ready for retrieval. After expiry of three months after receipt of the notice of termination, meteocontrol GmbH shall be entitled to delete the data, provided that the customer has been informed in the termination letter about the three-month retention period, plus the storage for retrieval and the subsequent possible deletion. Personal data is excluded from these regulations. In this case, only the provisions of the Federal Data Protection Act (Bundesdatenschutzgesetz) or the future European Data Protection Basic Regulation will apply. Also excluded from this regulation is data for which there exists a legal obligation to retain documentation (for example, tax or commercial requirements).
- 8.5 Despite continual monitoring, due to the multiplicity of new and occurring computer viruses, no 100% guarantee can be provided for products delivered. The software is inspected to ensure it is free from viruses using the usual programs. However, before usage the customer is to check that the software is free of viruses once again.
- 8.6 meteocontrol GmbH guarantees that contractual usage or application of products delivered will not be restricted or prohibited by third-party property rights.
- 8.7 If a third party claims infringement of rights, meteocontrol GmbH can prohibit the customer to use or apply the product in question, effective immediately. At the same time, meteocontrol GmbH is obligated to decide to either change or replace the product in question to the extent that the alleged property right is no longer affected, yet continues to correspond to the respective contract, or to purchase the right to be able to use the product without restriction. If this is not

feasible for meteocontrol GmbH, or not at reasonable conditions, or if the supplementary performance measurements of meteocontrol GmbH have failed, the customer is entitled – without prejudice to any claims for damages – to exercise the right of withdrawal or the right to reduction.

- 8.8 meteocontrol GmbH is entitled and obligated to conduct all legal disputes regarding alleged property rights infringement at their own expense.
- 8.9 The customer will inform meteocontrol GmbH immediately and in writing when a claim of alleged property rights infringement is asserted.
- 8.10 meteocontrol GmbH shall be liable for damage to the user caused by intentional or grossly negligent behavior of meteocontrol GmbH or its vicarious agents. meteocontrol GmbH shall only be liable for damages caused by slight negligence in the event that contractual obligations are breached (cardinal obligations). These are all contractual obligations, whose fulfillment enables the proper execution of the contract and whose observance the customer could trust. In this case, liability is limited to foreseeable damage which is typical of the contract. Exceptions to the preceding restrictions are claims for damage for injury to life, body and health as well as according to the Product Liability Act.
- 8.11 For provision of its services, meteocontrol GmbH uses, among others, data and information that are retained from third parties without assurance of specific properties and quality characteristics. meteocontrol GmbH is not liable for how complete or correct its content is. meteocontrol GmbH provides data from various measurement networks whose data quality and availability cannot be influenced by meteocontrol GmbH. Data provision can be interrupted due to meteorological interference, maintenance work and other non-foreseeable causes. Data transmission is via the Internet. Various servers and providers are involved in this process; meteocontrol

GmbH has no influence whatsoever upon this. For this reason, 100% data availability cannot be guaranteed.

8.12 Weather data supply takes place solely within the framework of the business operation prosecuted by the ordering customer. Usage of data for other commercial purposes or forwarding of data to third parties is prohibited and requires a special written agreement.

8.13 For services within the grid feed-in management field, meteocontrol shall not be held liable for any incidents or events which are beyond their control, for example the accuracy of control commands of an energy supplier, failure of transmitted control commands, hardware and software failures at the facility operator or end user switching procedures. Any liability for damages as a result of such incidents or events, such as loss of profit, grid instability, damages to parts of the customer's machinery, for example an inverter, are expressly excluded.

9. Retention of title

meteocontrol GmbH retains ownership on the delivered product up until complete payment of the purchase price as well as other claims arising from the business connection against the customer (extended retention of title). Pledging or collateral transfer of the product under retention is prohibited to the customer. The customer shall be entitled to resell the goods in the ordinary course of business. The customer assigns to meteocontrol GmbH at this point all claims to the amount of the invoice total against third parties accruing to him as a result of the resale. meteocontrol GmbH accepts this assignment. After the assignment the customer shall be authorized to collect accounts receivable until revoked. At the request of the customer, meteocontrol GmbH shall be obliged to release the securities to which it is entitled insofar as the realizable value of meteocontrol's securities exceeds the claim to be secured by more than 10%. meteocontrol GmbH

reserves the right to select the securities to be released.

10. Confidentiality

10.1 The parties are in agreement that all information related to the initiation of the contractual relationship or execution of the contractual relationship shall remain confidential. This shall continue to apply following termination of the contractual relationship.

10.2 Any reference to this existing business commitment in information or advertising material requires prior express written permission from meteocontrol GmbH.

10.3 The confidentiality agreement also especially applies to access data, e-mail and IP addresses and passwords provided by meteocontrol GmbH.

11. Export Control and Restrictions

11.1. The Parties are aware that the contractual services may be subject to export and import restrictions. In particular, there may be authorization requirements and/or the use of the contractual services or associated technologies abroad may be subject to restrictions. This shall be checked in each individual case before any permitted transfer. The Customer acknowledges that goods, software or technologies (collectively referred to as "ITEM") supplied by meteocontrol that contain corresponding labelling are subject to US export jurisdiction.

11.2. The Customer agrees that, in using the contractual services and with regard to the transfer and export of ITEMS, it will comply with all applicable export and import laws, regulations and rules of the Federal Republic of Germany, the European Union and the United States of America, as well as all other relevant regulations, in particular provisions of all relevant US anti-boycott laws and regulations as well as sanction lists of the European Union and the United States of America regarding business transactions with companies, persons or organizations named therein. Before the customer exports, re-exports,

transfers, diverts or transfers the goods delivered under this contract or a direct product thereof to any destination, end use or end user restricted or prohibited by U.S. law, including, but not limited to the US Export Administration Regulations 15 C.F.R. Parts 730-774, or restricted or prohibited by other applicable laws, he is required to obtain prior authorization from the US Department of Commerce or other relevant government agencies.

11.3. The Customer warrants that the shipping information is true and accurate to the best of its knowledge.

11.4. meteocontrol's performance of the contract shall be subject to the proviso that such performance is not prevented by any impediments arising out of national and international rules of export and import law or any other statutory provisions. Any claims for damages against meteocontrol due to delays in delivery as a result of export restrictions, inspections, and authorization procedures shall be excluded.

11.5. The Customer warrants that they will not sell, export, re-export, release, transfer or otherwise distribute the goods, services or information received from meteocontrol, either directly or indirectly, to parties for use or end use in Belarus, Crimea, Cuba, Iran, North Korea, Russia, Syria as well as the regions of Donetsk, Luhansk, Kherson and Zaporizhzhia in Ukraine (this list can be changed and extended by meteocontrol at any time).

11.6. [No-Russia/Belarus-Clause]

11.6.1. The Customer shall not sell, export or re-export, directly or indirectly, to Belarus or the Russian Federation or for use in Belarus or the Russian Federation any goods supplied under or in connection with this Agreement that fall under the scope of Article 8g of Council Regulation (EC) No 765/2006 and Article 12g of Council Regulation (EU) No 833/2014.

11.6.2. The Customer shall undertake its best efforts to ensure that the purpose of

Section 11.6.1 is not frustrated by any third parties further down the commercial chain, including by possible resellers.

11.6.3. The Customer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of Section 11.6.1.

11.6.4. Any violation of the Sections 11.6.1. to 11.6.3. shall constitute a material breach of an essential element of this Agreement, and meteocontrol shall be entitled to seek appropriate remedies, including, but not limited to termination of this Agreement.

11.6.5. The Customer shall immediately inform meteocontrol about any problems in applying Sections 11.6.1. to 11.6.3., including any relevant activities by third parties that could frustrate the purpose of Section 11.6.1. The Customer shall make available to meteocontrol information concerning compliance with the obligations under Sections 11.6.1. to 11.6.3. within two (2) weeks of the simple request of such information.

11.7. Violations of the provisions of this export control clause shall be deemed a material breach of contract. If the Customer violates an obligation under this export clause in connection with the contract, the Customer shall be obliged to immediately notify meteocontrol thereof. meteocontrol shall report violations of this agreement to the competent authorities within the scope of the applicable trade control laws.

11.8. meteocontrol may withdraw from the contract at any time with immediate effect, excluding claims (for damages) of any kind and on any legal grounds, if

11.8.1. the Customer, despite a request, does not provide any or sufficient information about the destination and the end use;

11.8.2. meteocontrol becomes aware of an end use or a person involved in the

transaction that was not assumed at the time of the offer and meteocontrol is unable to carry out the delivery or service due to foreign trade or company-internal provisions;

- 11.8.3. the goods or services are intended for military or nuclear purposes or for use in connection with weapons of mass destruction or the delivery systems intended for such weapons; factual indications shall be sufficient in this regard;
- 11.8.4. a prohibited or unauthorized export or an embargo violation cannot be ruled out beyond doubt;
- 11.8.5. export restrictions or delivery restrictions arise in connection with export control; or
- 11.8.6. the customer violates the above Sections 11.6.1. to 11.6.3. or any other provision of this export control clause.

Such a withdrawal shall not affect any other rights and claims of meteocontrol under the law or the contract.

- 11.9. The Customer shall fully indemnify meteocontrol against all claims asserted by authorities or other third parties against meteocontrol due to non-compliance with the above export control obligations and shall be liable for the reimbursement of all damages, costs, and expenses incurred by meteocontrol in this context.
- 11.10. Any attempted assignment or transfer of these conditions or of rights or obligations under this export control clause by the Customer without the prior written consent of meteocontrol shall not release the Customer from its obligations to meteocontrol.
- 11.11. All taxes, customs duties, fees and import and export duties incurred in connection with the delivery shall be borne by the customer.

12. Place of performance, place of jurisdiction, applicable law, contractual

language, partial invalidity and written form

- 12.1 The place of performance and sole place of jurisdiction is Augsburg, Germany.
- 12.2 This contractual relationship is subject to German law under exclusion of the international civil law and of the UN law on international sale of goods.
- 12.3 The language of contract is German. Other language versions are only translations and in case of doubt the German version prevails.
- 12.4 All changes and supplements to the contract must be in written form to be valid.
- 12.5 In the case of invalidity of a single provision of these terms and conditions, this does not affect the effectiveness of the other provisions.

End of cancellation policy