

General Terms and Conditions for Deliveries and Services

termed "T&C" in the following
meteocontrol GmbH, Augsburg, Germany
(March, 2013)

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 of the customer/user are not part of this contract unless meteocontrol GmbH expressly agrees to the validity of such in writing.

2. Conclusion of contract

- 2.1 Offers, price lists, technical information, cost estimates and other information from meteocontrol GmbH are subject to change.
- 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.

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.

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.

3.7 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 12% 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 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 (called Partner Contract) 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.

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 acts of God 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 "act of God" 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 acts of God or that arise or shall arise due to withdrawal from contract because of acts of God.

4.4 meteocontrol GmbH reserves the right to carry out partial shipments.

5. Customer contributory obligations

5. meteocontrol GmbH is exempted from its service period when the customer – inasmuch as is necessary – unpunctually or deficiently fulfills the following contributory obligations (free-of-charge for meteocontrol GmbH).

5.1.1 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 in a timely fashion from the responsible authorities.

5.1.2 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 operation of the hardware thus designated. 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. The software and the documentation may only be copied for archiving purposes or for purposes expressly allowed in writing by meteocontrol GmbH; all copies must contain the same copyright notice 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 safer'Sun Internet portal - abbreviated DSC (Data Service Center) – meteocontrol offers technical solutions which facilitate that measurement and meter data from energy generation systems are administered and the expected energy yield (target state) is compared with the measured energy yields (actual state) using Internet-supported services. When there is a corresponding contractual or usage relationship, a failure notice is sent upon any deviation.

7.2 meteocontrol GmbH is entitled at any time to carry out technical changes to the DSC and to the extent necessary, to restrict or temporarily (ie, for a maximum of 24 hours) discontinue the operation of the DSC for execution of changes. meteocontrol GmbH will strive to maintain usability for the user at the time of the changes to the software used during execution of changes (backwards compatibility). meteocontrol GmbH will strive to avoid executing changes to the system at times of high utilization (end of month, Monday mornings).

7.3 The automatic transmission via SMS or fax of up to four failure notices per month and system is included in the payment agreed upon. The costs for any further failure notices can be invoiced by meteocontrol GmbH to the user. Failure notices via e-mail shall remain free of charge until further notice.

- 7.4 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.
- 7.5 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.
- 7.6 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.
- 7.7 The user declares that he/she is the proprietor of the rights to the measurement data or has the power of disposition over said measurement data.

8. Warranty and liability

- 8.1 The warranty period is 24 months upon delivery.

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. Quality defects are considered only such that are demonstrated by the customer as well as reproducible deviations from specifications. Any issue that does not occur in the software version most recently provided to the customer and

where usage of such is reasonable for the customer is not a quality defect.

- 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.

- 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). Any additional expense resulting from shipment items no longer being at the point of delivery shall be borne by the customer, unless such shipment is stipulated contractually.

Any additional claims are excluded.

- 8.4 Repaired or replaced parts of a shipment item do not initiate a new warranty period.
- 8.5 The customer is responsible for maintenance and back-up of own individual data.
- 8.6 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.

- 8.7 meteocontrol GmbH guarantees that contractual usage or application of products delivered will not be restricted or prohibited by third-party property rights.
- 8.8 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 at reasonable conditions, the customer is entitled to exercise the legal right of withdrawal or the right to reduction. The customer may not demand restitution for expenses incurred in vain.
- 8.9 meteocontrol GmbH is entitled and obligated to conduct all legal disputes regarding alleged property rights infringement at their own expense.
- 8.10 The customer will inform meteocontrol GmbH immediately and in writing when a claim of alleged property rights infringement is asserted.
- 8.11 meteocontrol GmbH is liable – no matter what the legal cause – only for gross negligence, malice or when the infringed contractual obligation for attainment of the contractual aim is of essential significance. Upon infringement of cardinal duties, meteocontrol's liability is limited to foreseeable damages and comprises a maximum of 50% of the net order amount. The stringently proscribed liability for personal injuries as well as liability according to the Product Liability Act will remain unaffected.
- 8.12 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. 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 of the purchase price. 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. After assignment the customer shall be authorised to collect accounts receivable. meteocontrol GmbH shall be obliged to release the securities to which the company is entitled insofar as the realizable value of meteocontrol's securities exceeds the claim to be secured by more than 10%. Meteocontrol 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. Place of performance, place of jurisdiction, applicable law, contractual language, partial invalidity and written form

11.1 The place of performance and sole place of jurisdiction is Augsburg. meteocontrol GmbH is also entitled to take legal action at the site of the customer.

11.2 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.

11.3 The language of contract is German.

11.4 All changes and supplements to the contract must be in written form to be valid. This applies to the relinquishment of the requirement for such items being in writing.

End of cancellation policy