



## GENERAL TERMS AND CONDITIONS FOR ADDITIONAL SERVICES Version: February 2019

### 1. Scope of contract

These General Terms and Conditions contractually govern the purchase and use of additional services provided by MeteoSwiss ("services").

This contractual relationship is subject to private law. Any use of services in the standard range of services is subject to the provisions of public law.

### 2. Delivery of services

MeteoSwiss provides the services to the customer to the extent agreed for use as defined in the separate contract and pursuant to Article 10 et seq. of these General Terms and Conditions.

### 3. Terms of delivery

MeteoSwiss delivers the services using existing communication technologies.

The customer is obliged to accept the services on the basis of the distribution channels used by MeteoSwiss.

MeteoSwiss delivers the services to the addresses indicated by the customer. The provision and operation of suitable reception equipment is the responsibility of the customer, which shall also bear the costs.

### 4. Delivery dates

MeteoSwiss guarantees the punctual delivery of the services that it has at its disposal.

In the event of the non-delivery or incorrect delivery of services, MeteoSwiss is entitled but not obliged to deliver the services as stipulated by contract at a later date.

### 5. Transmission errors

The risk associated with transmission passes to the customer as soon as MeteoSwiss has delivered the services.

Each party shall immediately notify the other party of any transmission errors that are traceable to defects in the transmission lines / equipment.

Each party shall itself rectify such errors and bear the costs of rectification in respect of its own transmission lines / equipment.

### 6. Accuracy / Completeness

MeteoSwiss provides no guarantee regarding the accuracy of the services in terms of content.

MeteoSwiss does not guarantee and is not liable for the completeness of the services.

MeteoSwiss does however guarantee the scope of the services that it has at its disposal. In all other

respects, all guarantees by MeteoSwiss are excluded to the extent permitted by law.

MeteoSwiss excludes all liability for any loss of the services that it delivers.

### 7. Third-party services

MeteoSwiss excludes any guarantee or liability for services provided by third parties and may not be held liable for the delayed delivery of services provided by third parties.

Upon discovery of service deficiencies in services provided by subcontractors, MeteoSwiss shall take steps to ensure the service subcontractor corrects the deficiency. However, MeteoSwiss may not be held liable for the execution of the service deficiency rectification.

### 8. Prices

The customer shall pay the prices for the services agreed in the contract.

Any additional costs (expenses, additional staff costs, etc.) shall be shown separately.

All prices are exclusive of VAT.

Invoices must be paid within 30 days.

Unless otherwise stated, the delivery address is also the invoicing address.

### 9. Delay in payment

In the event of payment not being made by the given deadline, MeteoSwiss shall be entitled to withhold further delivery of services until such time as full payment is made of all outstanding amounts, including default interest of 5 percent.

As of the second reminder, the customer shall owe MeteoSwiss an administration fee of CHF 20.00 as well as the full amount of any costs incurred as a result of debt collection and/or legal proceedings.

### 10. Scope of use

The customer has the right to use the services to the extent specifically agreed. Any use outside the scope of such agreement is prohibited.

With prior consent from MeteoSwiss, the customer is entitled to publish the services obtained within the context of its own products or within the framework of scientific publications.

With prior consent from MeteoSwiss, the customer is entitled to make the services obtained available to third parties within the scope and for the duration of an order or research project. Beyond that, the direct forwarding of the services obtained to a third party, either free of charge or in return for payment, is prohibited.

Prior authorisation in writing from MeteoSwiss is required for modification to the formats and graphical layouts of the services and for the alteration of content.

All intellectual property rights and usage rights remain the property of their legal owners, whether MeteoSwiss or its subcontractors.

#### **11. Duty of protection**

The customer shall ensure that no unauthorised use of the services takes place.

The customer shall provide appropriate instruction to its staff, take security measures according to common industry practice, and conduct regular checks to prevent use in breach of contract.

If the customer should make the services obtained available to a third party in accordance with the contract, said customer is obliged to contractually guarantee on behalf of the third party that they will use the services exclusively within the scope and for the duration of this contract and/or project respectively and will not pass on the services to any other party.

Should the services be used in breach of contract, MeteoSwiss shall allow the customer five working days to remedy the breach of contract and to restore the situation to compliance with the contract.

If the customer fails to restore the situation to compliance with the contract within the period allowed of five working days, the customer shall pay MeteoSwiss a penalty amounting to one twelfth of the cost of the services obtained from MeteoSwiss in the previous year. If the customer has obtained the services for less than one year, the penalty due shall amount to the cost of the services obtained divided by the number of months in which the contract has been in force.

After expiry of the five-day period, the customer shall be given an additional 72 hours to remedy the situation that is in breach of contract and to restore the situation to compliance with the contract. If the customer does not comply, MeteoSwiss is entitled to terminate the contract in full without further warning. Payments already made shall be forfeited to MeteoSwiss. Payments due for the current calendar year remain due and must be paid in accordance with the contract. Furthermore, the customer shall owe MeteoSwiss an additional penalty for the customer-caused termination of the contract amounting to one half of the cost of the services obtained from MeteoSwiss in the previous year. If the customer has obtained the services for less than one year, the penalty due shall amount to one half of the cost of the services obtained.

If MeteoSwiss waives its right to withdraw from the contract, the customer shall nevertheless owe MeteoSwiss a penalty amounting to one half of the cost of the services obtained from MeteoSwiss in the previous year. If the customer has obtained the services for less than one year, the penalty due shall amount to one half of the cost of the services obtained.

The customer acknowledges, in recognition of the special level of protection required by MeteoSwiss,

that the penalty amount is appropriate for this contract and, in particular, that it is not excessive.

The payment of the penalty shall not release the customer from their obligation to comply with their contractual duties. In particular, the offsetting of a contractual penalty against any potential claims for compensation from MeteoSwiss is excluded.

The right to claim further compensation for damages remains expressly reserved.

#### **12. Indication of source**

To the extent that publication of the services supplied is permitted pursuant to the agreed conditions of usage, the source must be indicated as follows:

Where used in recognisable form in text products or graphical products: "Source: MeteoSwiss".

#### **13. Legal guarantee**

MeteoSwiss hereby declares that it is itself entitled to the services. If third parties take action against the customer regarding a breach of industrial property rights or other contractual claims as a consequence of the use of the services, MeteoSwiss shall accept the costs of defending the action as well as any further losses incurred provided that it is proven that the infringement of intellectual property rights is due to wilful or grossly negligent conduct on the part of MeteoSwiss.

The customer is obligated to immediately notify MeteoSwiss of any claims made and to authorise MeteoSwiss in writing to conduct the defence and to conclude a settlement. MeteoSwiss shall not be liable for breaches of intellectual property rights caused by the customer's conduct.

#### **14. Liability**

The parties are mutually liable for loss or damage arising from this contract only in such cases in which one of the parties has acted wilfully or with gross negligence to cause direct loss or damage. To the legally permitted extent, liability shall be excluded for indirect loss or damage.

To the legally permitted extent, liability shall be excluded for auxiliary persons.

#### **15. Termination**

This contract is concluded for an indefinite period.

Each party has the right to terminate this contract by giving notice of six months at the end of any month by means of a registered letter of termination. If the notice of termination is not received within the stipulated notice period, it shall take effect on the next possible termination date.

Each party has the right to terminate the contract in writing for valid reasons with immediate effect. A serious breach of contractual obligations constitutes a valid reason.

#### **16. Catalogue changes**

MeteoSwiss reserves the right to discontinue services in its range of services following a notice period of at least six months.

**17. Scope of the contract**

This contract contains all contractual provisions. It completely replaces any pre-contractual, verbal or written agreements.

**18. Prohibition of assignment or transfer**

This contractual relationship, the individual rights and obligations contained within it as well as claims against the other contracting party may only be transferred to a third party with the prior written approval of the other contracting party.

MeteoSwiss is entitled to withhold approval for objective reasons, especially if the new contracting party does not provide sufficient guarantee of compliance with the contract.

**19. Confidentiality**

In principle, this contractual relationship is public in terms of the Swiss Federal Act of 17 December 2014 on Freedom of Information in the Administration (Freedom of Information Act, FoIA, SR 152.3). The customer's confidentiality interests, particularly confidential professional, business and manufacturing information, are protected in terms of Art. 7, para. 1, item g of the FoIA. The customer shall protect the confidential information belonging to MeteoSwiss. Statutory disclosure obligations shall apply.

**20. Written form requirement**

Alterations and additions to these General Terms and Conditions must be made in writing. This also applies to this agreement regarding the mandatory written form itself. Verbal ancillary agreements do not exist.

**21. Partial invalidity / Ineffectiveness**

If any provision of these General Terms and Conditions is invalid or ineffective, neither the remaining provisions nor the General Terms and Conditions in general shall be affected by this.

The parties shall replace the invalid or ineffective provision by mutual agreement. A replacement provision shall correspond to the commercial purpose, the intended balance and the spirit of the contract.

**22. Divergent written agreements**

Any divergent written agreements shall take precedence over these General Terms and Conditions.

**23. Amendments to the General Terms and Conditions**

MeteoSwiss reserves the right to amend the General Terms and Conditions at any time.

Amendments to the General Terms and Conditions shall be notified to the customer in writing, or by other suitable means, and shall be deemed to be approved if no objection is made within a one-month period.

**24. Settlement of disputes**

Differences of opinion and disputes shall, whenever possible, be settled in good faith by negotiation.

**25. Applicable law and place of jurisdiction**

This contract is subject exclusively to Swiss private law.

The sole place of jurisdiction is Zurich.