

# Terms of Use MORECAST

(30 June 2015)

## 1. Applicability

1.1 These Terms of Use apply to the use of the information and services provided by UBIMET GmbH (hereinafter: “**UBIMET**”), free of charge, on its website and/or corresponding app at [www.morecast.com](http://www.morecast.com) (hereinafter: the “**Information Service**”). By using the Information Service, you accept the UBIMET Terms of Use in effect at the time of use, which apply upon publication at [www.morecast.com](http://www.morecast.com) or in the corresponding app.

1.2 UBIMET reserves the right to change these Terms of Use at any time. The Terms of Use are published in their current form. If the Information Service is used on a recurring basis, it is recommended that the Terms of Use be accessed on a recurring basis.

## 2. Description of the Information Service

2.1 UBIMET provides meteorological information (hereinafter: “**Information**”) on an ongoing basis. The Information contains data on the current (domestic and foreign) weather and expected changes in the weather, particularly Information about rain, snow, storms, wind and freezing rain if the published threshold values in that region selected by the user are exceeded.

2.2 The Information Service is currently provided by UBIMET free of charge.

2.3 UBIMET reserves the right to restrict, discontinue or modify some or all of the Information and services provided by its Information Service at any time or to make such Information dependent upon the payment of a fee.

2.4 We obtain the webcams from [webcams.travel](http://webcams.travel): the free webcam catalog with more than 40.000 webcams worldwide.

2.5 The map service is provided by HERE. When you use the map service you agree to the terms of use (<https://legal.here.com/terms/serviceterms/gb>) and the privacy policy (<https://legal.here.com/privacy/policy/gb>) of HERE. The map service may also include data from other third parties. Further information you may find at [http://corporate.navteq.com/supplier\\_terms.html](http://corporate.navteq.com/supplier_terms.html).

## 3. General terms regarding the use of the Information Service and the Information provided

3.1 UBIMET grants you a non-exclusive right to use the Information Service, which is limited to the time period when the Information is actually provided and the Intended Use. The “**Intended Use**” is to obtain the Information for your own private purposes and for occupational purposes as long as the use is not for commercial exploitation of the Information. The Intended Use does not include – and therefore expressly prohibits – copying some or all of the Information, using the Information to provide meteorological data for private or commercial purposes or to create or expand one’s own databases or to provide an Information Service, and for all purposes that run counter to the interests of UBIMET. In addition, any use of the Information Service that can damage, overload or otherwise impair the functionality of the Information Service and any use for illegal, unauthorized purposes or immoral purposes is not permitted.

3.2 If there are copyright infringements, UBIMET reserves the right to seek judicial relief and to file any necessary complaints with the competent law enforcement authorities.

3.3 You must not interfere or disrupt the Information Service, servers or networks connected to the Information Service, including transmitting any worms, viruses, spyware, malware or any other code of a destructive or disruptive nature. You may not inject content, code or otherwise alter or interfere with the way any UBIMET page is rendered or displayed in a user's browser or device.

3.4 We reserve the right, in our sole discretion, to change these Terms of Use ("**Updated Terms**") from time to time. Unless we make a change for legal or administrative reasons, we will provide reasonable advance notice before the Updated Terms become effective. You agree that we may notify you of the Updated Terms by posting them on the Information Service, and that your use of the Information Service after the effective date of the Updated Terms (or engaging in such other conduct as we may reasonably specify) constitutes your agreement to the Updated Terms. Therefore, you should always review these Terms of Use and any Updated Terms before using the Information Service. The Updated Terms will be effective at the time of posting, or such later date as may be specified in the Updated Terms, and will apply to your use of the Information Service from that point forward. These Terms of Use will govern any disputes arising before the effective date of the Updated Terms.

3.5 You agree that you are responsible for all data charges you incur through use of the Information Service.

3.6 You may not post violent, nude, partially nude, discriminatory, unlawful, infringing, hateful, pornographic or sexually suggestive photos or other content via the Information Service.

3.7 You represent that all information you provide or provided to UBIMET upon registration and at all other times will be true, accurate, current and complete and you agree to update your information as necessary to maintain its truth and accuracy.

3.8 You must not defame, stalk, bully, abuse, harass, threaten, impersonate or intimidate people or entities and you must not post private or confidential information via the Information Service, including, without limitation, your or any other person's credit card information, social security or alternate national identity numbers, non-public phone numbers or non-public email addresses.

3.9 You must not create or submit unwanted emails, comments, likes or other forms of commercial or harassing communications (a/k/a "spam") to any UBIMET users.

3.10 Violation of these Terms of Use may, in UBIMET's sole discretion, result in termination of your MORECAST account. You understand and agree that UBIMET cannot and will not be responsible for the content posted on the Information Service and you use the Information Service at your own risk. If you violate the letter or spirit of these Terms of Use, or otherwise create risk or possible legal exposure for UBIMET, we can stop providing all or part of the Information Service.

3.11 Upon termination, all licenses and other rights granted to you in these Terms of Use will immediately cease.

3.12 UBIMET reserves the right to modify or terminate the Information Service or your access to the Information Service for any reason, without notice, at any time, and without liability to you. You can deactivate your MORECAST account by logging into the Information Service and completing the form available

here: <https://morecast.com/accounts/remove/request/>. If UBIMET terminates your access to the Information Service or you use the form detailed above to deactivate your account, your photos, comments, likes, friendships, and all other data will no longer be accessible through your account (e.g., users will not be able to navigate to your username and view your photos), but those materials and data may persist and appear within the Information Service (e.g., if your Content has been re-shared by others).

3.13 We may, but have no obligation to, remove, edit, block, and/or monitor content or accounts containing content that we determine in our sole discretion violates these Terms of Use.

3.14 You are solely responsible for your interaction with other users of the Information Service, whether online or offline. You agree that UBIMET is not responsible or liable for the conduct of any user. UBIMET reserves the right, but has no obligation, to monitor or become involved in disputes between you and other users. Exercise common sense and your best judgment when interacting with others, including when you submit or post content or any personal or other information.

#### **4. Rights**

4.1 UBIMET does not claim ownership of any content that you post on or through the Information Service. Instead, you hereby grant to UBIMET a non-exclusive, fully paid and royalty-free, transferable, sub-licensable, worldwide license to use the content that you post on or through the Information Service.

4.2 You represent and warrant that: (i) you own the content posted by you on or through the Information Service or otherwise have the right to grant the rights and licenses set forth in these Terms of Use; (ii) the posting and use of your content on or through the Information Service does not violate, misappropriate or infringe on the rights of any third party, including, without limitation, privacy rights, publicity rights, copyrights, trademark and/or other intellectual property rights; (iii) you agree to pay for all royalties, fees, and any other monies owed by reason of content you post on or through the Service; and (iv) you have the legal right and capacity to enter into these Terms of Use in your jurisdiction.

4.3 Some of the Information Service is supported by advertising revenue and may display advertisements and promotions, and you hereby agree that UBIMET may place such advertising and promotions on the Information Service or on, about, or in conjunction with your content. The manner, mode and extent of such advertising and promotions are subject to change without specific notice to you.

4.4 You acknowledge that we may not always identify paid services, sponsored content, or commercial communications as such.

4.5 The UBIMET and MORECAST names and logos are trademarks of UBIMET, and may not be copied, imitated or used, in whole or in part, without the prior written permission of UBIMET. In addition, all page headers, custom graphics, icons and scripts are service marks, trademarks and/or trade dress of UBIMET, and may not be copied, imitated or used, in whole or in part, without prior written permission from UBIMET. All material provided in the Information Service, unless it is the proprietary intellectual property of some third party, is the intellectual property of UBIMET including specifically the aforementioned service marks, trademarks and/or trade dress as well as all copyright works, and you expressly acknowledge that none of such intellectual property shall be reproduced or used other than in accordance with

these Terms of Use.

4.6 Although it is UBIMET 's intention for the Information Service to be available as much as possible, there will be occasions when the Information Service may be interrupted, including, without limitation, for scheduled maintenance or upgrades, for emergency repairs, or due to failure of telecommunications links and/or equipment. Also, UBIMET reserves the right to remove any content from the Information Service for any reason, without prior notice.

4.7 UBIMET does not accept or consider content, information, ideas, suggestions or other materials other than those we have specifically requested and to which certain specific terms, conditions and requirements may apply. This is to avoid any misunderstandings if your ideas are similar to those we have developed or are developing independently. Accordingly, UBIMET does not accept unsolicited materials or ideas, and takes no responsibility for any materials or ideas so transmitted. If, despite our policy, you choose to transmit to us content, information, ideas, suggestions, or other materials, you further agree that your action of transmittal shall be deemed to be an assignment by you of all intellectual property rights therein to UBIMET and that UBIMET is free to use any such content, information, ideas, suggestions or other materials, for any purposes whatsoever, including, without limitation, developing and marketing products and services, without any liability or payment of any kind to you.

## **5. Warranty, Liability and Indemnification**

5.1 UBIMET shall provide its Information Services in accordance with the recognised rules of meteorological science and technology. However, 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 Information Services of UBIMET are forecasts based on experience with certain probabilities. Deviations from actual weather conditions cannot be avoided. Therefore, UBIMET assumes no liability of any kind towards users and third parties affiliated with them in connection with any failure of the meteorological data to match the weather conditions actually occurring.

5.2 UBIMET expressly notes that the Information Services it provides is not an official warning. To the extent that you are dependent on official severe weather warnings and/or must refer to them, you should not expect to be able to meet this obligation by using the services of UBIMET.

5.3 The Information Service, including, without limitation, UBIMET content, is provided on an "as is" and "with all faults" basis. To the fullest extent permissible by law, neither UBIMET nor its parent company, subsidiary companies, nor any of their employees, managers, officers or agents (collectively, the "**UBIMET parties**") make any representations or warranties or endorsements of any kind whatsoever, express or implied, as to: (a) the Information Service; (b) user content; or (c) security associated with the transmission of information to UBIMET or via the Information Service. In addition, the UBIMET parties hereby disclaim to the extent permitted by applicable legislation all warranties, express or implied, including, but not limited to, the warranties of merchantability, fitness for a particular purpose, non-infringement, title, custom, trade, quiet enjoyment, system integration and freedom from computer virus.

5.4 The UBIMET parties do not represent or warrant that the Information Service will

be error-free or uninterrupted; that defects will be corrected; or that the Information Service or the server that makes the Information Service available is free from any harmful components, including, without limitation, viruses. The UBIMET parties do not make any representations or warranties that the Information (including any instructions) on the Information Service is accurate, complete, being updated or useful. You acknowledge that your use of the Information Service is at your sole risk. The UBIMET parties do not warrant that your use of the Information Service is lawful in any particular jurisdiction, and the UBIMET parties specifically disclaim such warranties.

5.5 By accessing or using the Information Service you represent and warrant that your activities are lawful in every jurisdiction where you access or use the Information Service.

5.6 To the extent that UBIMET alludes to the informational offerings of third parties through links and other references, this does not mean that UBIMET has made the informational offering of any such third party part of its own Information. UBIMET does not check the informational offerings of third parties and UBIMET does not endorse content and/or availability and specifically disclaims any responsibility or liability to any person or entity for any loss, damage (whether actual, consequential, punitive or otherwise), injury, claim, liability or other cause of any kind or character based upon or resulting from any informational offerings of third parties.

5.7 UBIMET disclaims all warranty and liability for any failures, interruptions, omissions, faulty data transfers or other disruptions or impairments of the channels of communication applicable to its Information Service caused by technical difficulties. In particular, the user is aware that UBIMET must perform maintenance work for short periods of time, which can result in the temporary non-availability of the Information Service. Any liability on the part of UBIMET and any other legal claims of the user against UBIMET in this regard are expressly excluded.

5.8 To the fullest extent permissible by law, under no circumstances will UBIMET be liable to you for any loss or damages of any kind (including, without limitation, for any direct, indirect, economic, exemplary, special, punitive, incidental or consequential losses or damages) that are directly or indirectly related to: (a) the Information Service; (b) user content; (c) your use of, inability to use, or the performance of the information service; (d) any action taken in connection with an investigation by the UBIMET parties or law enforcement authorities regarding your or any other party's use of the Information Service; (e) any action taken in connection with copyright or other intellectual property rights or owners; (f) any errors or omissions in the Information Service's operation; or (g) any damage to any user's computer, mobile device, or other equipment or technology including, without limitation, damage from any security breach or from any virus, bugs, tampering, fraud, error, omission, interruption, defect, delay in operation or transmission, computer line or network failure or any other technical or other malfunction, including, without limitation, damages for lost profits, loss of goodwill, loss of data, work stoppage, accuracy of results, or computer failure or malfunction, even if foreseeable or even if the UBIMET parties have been advised of or should have known of the possibility of such damages, whether in an action of contract, negligence, strict liability or tort (including, without limitation, whether caused in whole or in part by negligence, acts of god, telecommunications failure, or theft or destruction of the service). To the fullest extent permissible by law, in no event will the UBIMET parties be liable to you or anyone else for loss, damage or injury.

5.9 You (and also any third party for whom you operate an account or activity on the service) agree to defend (at UBIMET's request), indemnify and hold the UBIMET parties harmless from and against any claims, liabilities, damages, losses, and expenses, including without limitation, reasonable attorney's fees and costs, arising out of or in any way connected with any of the following (including as a result of your direct activities on the Information Service or those conducted on your behalf): (i) your content or your access to or use of the Information Service; (ii) your breach or alleged breach of these Terms of Use; (iii) your violation of any third-party right, including without limitation, any intellectual property right, publicity, confidentiality, property or privacy right; (iv) your violation of any laws, rules, regulations, codes, statutes, ordinances or orders of any governmental and quasi-governmental authorities, including, without limitation, all regulatory, administrative and legislative authorities; or (v) any misrepresentation made by you. You will cooperate as fully required by UBIMET in the defense of any claim. UBIMET reserves the right to assume the exclusive defense and control of any matter subject to indemnification by you, and you will not in any event settle any claim without the prior written consent of UBIMET.

## **6. Provision of content by you**

6.1 You are able to upload photographic and other pictorial materials and texts (especially postings) to the Information Service. The photographic, pictorial and textual materials uploaded should have some relation to the current weather.

6.2 You warrant that all the photographic, pictorial and textual materials he provides are permissible and do not violate law or good morals. In addition, you warrant that you hold all rights to the photographic, pictorial and textual materials and that provision of the photographic and pictorial materials does not infringe any rights of third parties, particularly the copyrights of third parties. You shall indemnify UBIMET and hold it harmless if any such legal claims are asserted against UBIMET by third parties.

6.3 UBIMET shall be entitled in its sole discretion to remove the photographic, pictorial and textual materials provided by you at any time without giving a reason.

6.4 By providing the photographic, pictorial and textual materials, you grant UBIMET the sole – and therefore exclusive – right to use and exploit the photographic, pictorial and textual materials without geographic or temporal restrictions. This includes, in particular, the right to copy and disseminate these materials and otherwise make them available. You shall not be entitled to any compensation for this.

## **7. Data protection and consent to use personal data**

7.1 The personal data provided by you when registering with UBIMET, particularly the contact data (i.e. the telephone number, fax number and email address), are stored and used by UBIMET to provide and conduct the Information Service.

**7.2 Subject to revocation, you hereby expressly agree to receive (fax, email and SMS) messages at any time with information from the Information Service, even if these messages contain advertisements from UBIMET and/or third parties that may not be companies in related industries, in addition to the information from the Information Service.**

**7.3 By registering, you also expressly consent to the use of the personal data**

**you provide, particularly the contact information and your location information (as far as the localization function on your device is activated), by UBIMET for UBIMET's advertising and marketing purposes and for the advertising and marketing purposes of UBIMET's advertising partners.**

**7.4 You grant UBIMET express consent to transmit the above-mentioned personal data to its existing and future advertising partners for their advertising and marketing purposes.**

**7.5 In particular, by providing your telephone number, fax number and/or email address, you expressly agree to receive telephone calls, fax messages, and/or electronic mail (email, SMS messages etc.) from UBIMET and its advertising partners for advertising and marketing purposes.**

**7.6 This consent shall be valid during the agreed-upon term of the contract and can be revoked at any time. Any revocation and any change in personal data shall be emailed to [support@morecast.com](mailto:support@morecast.com).**

7.7 When you access the Information Service, this may result in the use of cookies. A cookie is a text file with number codes, which is sent to your web browser and stored on the user's device in order to make the Information Service more user-friendly, effective and safe. You can prevent this from happening by adjusting the settings on your device. The data obtained by UBIMET through this means contains no personal references. UBIMET uses this data for statistical and marketing purposes and to optimise its Information Service.

7.8 On our website UBIMET uses Google Analytics in order to constantly improve the site and/or identify errors. For this purpose certain data is stored such as the website visited, including its metadata, the internet pages referring to UBIMET, the time at which the website was called up and the browser used. The data will be passed on and stored on a Google server. Google may pass the stored data to third parties, as far as this is legally required or as far as such third parties process the information on Google's behalf. Google will not in any case connect your IP-address with other Google data.

In order to exclude data aggregation and analysis by Google Analytics caused by your visit to this website, please configure your internet browser to erase all cookies from your computer's hard drive, block all cookies or to receive a warning before a cookie is stored. If you change your device or internet browser, you must set the exclusion again. UBIMET points out that if you do so you may not be able to use the full functionality of the website respectively the application.

7.9 For the applications UBIMET uses the analysis-program "Adjust". This analysis-program uses anonymized IP-addresses of users for analysis reasons only. Hereby, a conclusion on a specific individual is not possible. More detailed information is available on: <https://www.adjust.com>.

7.10 We have contracted with Yahoo to monitor certain pages of our website for the purpose of reporting web traffic, statistics, advertisement 'click-throughs,' and/or other activities on our website. No personally identifiable data is transferred to Yahoo by us. Where authorized by us, Yahoo may use cookies, web beacons, and/or other monitoring technologies to compile anonymous statistics about our website visitors. However, if you choose, you may opt out from Yahoo's collection of such information outside of the Yahoo distribution network, by clicking on the following link: [http://info.yahoo.com/privacy/us/yahoo/opt\\_out/targeting/details.html](http://info.yahoo.com/privacy/us/yahoo/opt_out/targeting/details.html) >

7.11 UBIMET reserves the right to use further analysis-programs of other providers. In this regard, UBIMET will ensure that all data will be used only anonymized and a

conclusion on a specific individual will be excluded. The analysis-programs can be deactivated at any time within the application in the settings.

7.12 When using the application of UBIMET, location data are passed on to UBIMET for the purpose of a better usability, especially for automatically weather display of the respective location of the user. By your request to receive weather information, UBIMET determines your actual location through your device and/or GPS technology. Furthermore, this data is used for more effective processing of the weather request. After the installation of the application the localization functions are standardly (by default) active in the respective settings of the device. Any time you may activate or deactivate the localization functions in your device and depending on the used device you will be asked thereafter before or after installation of the application. Only when the localization functions are activated localization data can be processed by UBIMET. Upon completion of your request your localization data will be made anonymous and statistically evaluated for improvement of the UBIMET services and for the purpose of marketing.

## **8. Applicable Law and Jurisdiction**

8.1 If you are using the Information Service on behalf of a legal entity, you represent that you are authorized to enter into an agreement on behalf of that legal entity. These Terms of Use constitute the entire agreement between you and UBIMET and govern your use of the Information Service, superseding any prior agreements between you and UBIMET. You will not assign the Terms of Use or assign any rights or delegate any obligations hereunder, in whole or in part, whether voluntarily or by operation of law, without the prior written consent of UBIMET. Any purported assignment or delegation by you without the appropriate prior written consent of UBIMET will be null and void. UBIMET may assign these Terms of Use or any rights hereunder without your consent.

8.2 If any provision of these Terms of Use is found by a court of competent jurisdiction to be invalid or otherwise unenforceable, the parties nevertheless agree that such portion will be deemed severable from these Terms of Use and will not affect the validity and enforceability of the remaining provisions, and the remaining provisions of the Terms of Use remain in full force and effect. Neither the course of conduct between the parties nor trade practice will act to modify the Terms of Use. These Terms of Use do not confer any third-party beneficiary rights.

8.3 The information provided within the Information Service is not intended for distribution to or use by any person or entity in any jurisdiction or country where such distribution or use would be contrary to law or regulation or which would subject UBIMET to any registration requirement within such jurisdiction or country. We reserve the right to limit the availability of the Information Service or any portion of the Information Service, to any person, geographic area, or jurisdiction, at any time and in our sole discretion, and to limit the quantities of any content, program, product, service or other feature that UBIMET provides.

8.4 Violations of these Terms of Use will be prosecuted until legal remedies are exhausted.

8.5 To the extent allowed by law, you agree that any claim you may have arising out of or related to your relationship with UBIMET must be filed within one year after such claim arose; otherwise, your claim is permanently barred.

8.6 These Terms of Use are governed by and construed in accordance with the laws

of Austria, excluding the UN Convention on Contracts for the International Sale of Goods and any conflict-of-law rules under international private law.

8.7 All disputes, differences of opinion and claims arising under these Terms of Use or relating to these Terms of Use, their violation, dissolution or invalidity shall exclusively be filed with a court with subject matter jurisdiction at the place where UBIMET has its registered office.

8.8 These Terms of Use in the original version are written in the English language. In the event of inconsistency regarding the translated version, the English version shall apply.

UBIMET GmbH