

GENERAL TERMS AND CONDITIONS for IT services and the use of the GEOLYTIC SOFTWARE

of

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Geolytic GmbH ("GEOLYTIC") develops and distributes software in the fields of nature, the environment and construction ("GEOLYTIC SOFTWARE"). The GEOLYTIC SOFTWARE enables the rapid connection of various sources and the processing of data as well as the provision of reports, analyses and dashboards. In addition, IT services are also provided within third-party systems.

These General Terms and Conditions ("GTC") govern the legal framework for (i) the granting of licences to use the GEOLYTIC SOFTWARE and (ii) the provision of individual services (e.g. trial installations, training, data analyses, customer-specific development, etc.) to the business and/or service customers of GEOLYTIC (the "Customer").

§ 1 Scope

- (1) Upon establishment of the contractual relationship pursuant to § 2 (1), the GTC are accepted by the Customer and shall thereafter apply for the entire duration of the business relationship. Any general terms of business or purchasing conditions of the Customer shall not automatically become part of the contract and shall apply only if they are acknowledged in writing by GEOLYTIC in an individual case on the basis of an individual agreement.
- (2) Employees of GEOLYTIC and other vicarious agents or auxiliary persons involved in the contractual provision of services by GEOLYTIC are not authorised to make ancillary agreements that go beyond the content of the agreement reached with the Customer or beyond these GTC.

§ 2 Conclusion of the contract and contractual terms

- (1) The contract between the Customer and GEOLYTIC is established by a written order placed by the Customer on the basis of the GEOLYTIC licence offer or service offer.
- (2) The GEOLYTIC SOFTWARE, as well as all documents, proposals, test programs, etc. connected with the contractual provision of services, may neither be reproduced nor made accessible to third parties. If no contract is concluded with the Customer, these contractual items, documents, proposals, test programs, etc. are to be returned or deleted and may not be used further.
- (3) The Customer is familiar with the essential functional characteristics of the GEOLYTIC SOFTWARE; the Customer itself bears the risk that the GEOLYTIC SOFTWARE may not correspond to its wishes and/or operational needs. In case of doubt, the Customer must obtain advice from employees or vicarious agents of GEOLYTIC or from qualified third parties before concluding the contract.
- (4) All statements in printed matter, catalogues, on the website, in advertisements, presentations, price lists and other

information and advertising material of GEOLYTIC concerning technical data or product characteristics do not serve as a basis for any claims by the Customer and constitute merely a general description and designation of the services of GEOLYTIC. A guarantee of quality shall be assumed only where it has been expressly designated as such and agreed.

- (5) The licence agreement is concluded for a term of one year. It is automatically extended by one year unless the Customer terminates it in writing no later than three months before expiry of the contract.
- (6) Subject to timely notice, GEOLYTIC is entitled at any time to alter, extend or restrict the content and scope of the contractual services in a manner reasonable for the Customer. GEOLYTIC will take such measures in particular where this is prompted by technical or legal circumstances or serves to safeguard the functionality of the GEOLYTIC SOFTWARE.

§ 3 Subject matter of the contract and scope of services

- (1) The services to be provided by GEOLYTIC comprise in particular, but not exclusively:
 - (a) granting of a simple, non-exclusive, non-transferable right of use of the GEOLYTIC SOFTWARE, limited in subject matter and in time (simple right to use the work) pursuant to § 6;
 - (b) assistance with putting the GEOLYTIC SOFTWARE into operation;
 - (c) provision of product training and answering of any customer enquiries;
 - (d) preparation of customer-specific reporting and performance of data analyses;
 - (e) performance of servicing and maintenance work on the GEOLYTIC SOFTWARE;
 - (f) performance of remedial work on a malfunction of the GEOLYTIC SOFTWARE notified in accordance with § 5 (2);
 - (g) planning, implementation and commissioning of individual adaptations and extensions of the GEOLYTIC SOFTWARE;
 - (h) other services such as:
 1. preparation of concepts
 2. overall and detailed analyses
 3. creation of individual programs
 4. supply of library (standard) programs
 5. acquisition of rights of use for software products
 6. acquisition of licences to use works

7. assistance with commissioning (migration support)
 8. telephone advice
 9. program maintenance
 10. creation of program media
- (2) The nature and scope of the services and licence fees of GEOLYTIC are based on the cost estimate or licence calculation provided to the Customer in the course of the award of the order, together with the binding information, documents and resources contained therein and the agreements reached in workshops/coordination meetings.
 - (3) The basis for the provision of other services is the written service description which the contractor draws up against charge on the basis of the documents and information made available to it, or which the client provides. This service description is to be checked by the client for accuracy and completeness and to be marked with its note of approval. Requests for changes arising later may lead to separate agreements on deadlines and prices.
 - (4) Should the provision of services in accordance with the order prove impossible for legal or factual reasons, GEOLYTIC is obliged to notify the Customer thereof without delay. If the Customer changes the scope of services or fails to create the necessary conditions to enable GEOLYTIC to provide its services, GEOLYTIC may refuse to carry out the order. This applies in particular where the impossibility of providing the services is attributable to an omission on the part of the Customer or to a subsequent change in the scope of services. In such a case, the costs and expenses incurred by GEOLYTIC for its work up to that point, as well as any dismantling costs, are to be reimbursed by the Customer.
 - (5) Any dispatch of program media, documentation and functional and service descriptions takes place at the expense and risk of the Customer.
 - (6) Training and explanations requested by the Customer are invoiced separately unless they are included in the scope of the licensing offered.
 - (7) Accessible design within the meaning of the Austrian Federal Act on the Equality of Persons with Disabilities (Bundes-Behindertengleichstellungsgesetz – BGStG) is not included in the offer unless it has been separately requested by the client.
 - (8) The client must check the content it provides for legal admissibility, in particular under competition, trade mark, copyright and administrative law.
 - (9) In the event of slight negligence, or after fulfilment of any duty to warn the Customer, GEOLYTIC is not liable for the legal admissibility of content where such content was specified by the Customer.

§ 4

Services/obligations of the Customer

- (1) The Customer undertakes to use the GEOLYTIC SOFTWARE in accordance with its purpose and with the contract.
- (2) Changes to the system requirements within the Customer's sphere of influence must be notified in good time before completion of the provision of services. Delays and additional costs arising from such changes in the performance of the services shall be borne by the Customer.
- (3) The Customer shall provide all documents, information and facilities within its sphere that are required for the provision of the services owed by GEOLYTIC in good time and free of charge, and shall furthermore request in good time any cooperation or contributions of third parties that are a prerequisite for the provision of services by GEOLYTIC.

- (4) The Customer shall grant GEOLYTIC and its employees and partner companies, during ordinary business hours pursuant to § 7 (2), the access to its (business) premises necessary for performance of the contract and shall enable sufficient access to internal systems (hardware and software) and to any employees of the Customer, where this is required for the provision of the contractual services by GEOLYTIC.
- (5) Where acts of cooperation or contributions are not provided or requested in good time, the delivery or performance dates of GEOLYTIC shall be postponed accordingly. Any futile or additional expenditure caused to GEOLYTIC as a result shall be invoiced separately.
- (6) The Customer must notify GEOLYTIC in writing without delay of any changes to its company name and legal form as well as to its address, invoicing address and bank details. If such notification of change is not given, documents shall be deemed to have been received if they were sent to the address or paying agent last notified by the Customer.
- (7) The Customer grants GEOLYTIC the right, where a registered company exists, to include the company name or any logo or trade mark in a partner or reference list and to make the business relationship with GEOLYTIC publicly known.

§ 5

Acceptance and remedy of faults

- (1) The Customer accepts the contractual services of GEOLYTIC on the terms jointly determined pursuant to § 3 (2). The functionalities and characteristics of the GEOLYTIC SOFTWARE are as set out in § 2 (3).
- (2) On delivery, the Customer must subject the object of performance (individual programs, program adaptations, GEOLYTIC SOFTWARE, reporting, dashboard, ...) to a careful functional test. In doing so, the functional characteristics determined and accepted by GEOLYTIC are to be compared with the actual product properties. Any program faults or application errors in the GEOLYTIC SOFTWARE occurring in the course of the functional test must be notified to GEOLYTIC within a reasonable period, but at the latest within 10 (ten) working days after delivery. Hidden defects in the product must be notified within 5 (five) working days from the point at which the defect becomes apparent.
- (3) Notices of defects must first be given electronically by email to info@geolytic.at, setting out precisely (i) the type of fault, (ii) the application in which the fault occurred and (iii) any measures already taken to eliminate the fault. If a fault report is not made, or is not made within the period specified in § 5 (2), the delivery shall be deemed approved by the Customer.
- (4) If the GEOLYTIC SOFTWARE is already being used in live operation within the Customer's business, it shall in any event be deemed accepted.
- (5) In the event of a notice of defects pursuant to § 5 (2), (i) a contact person at the Customer must be named and (ii) a detailed description of the fault that has occurred must be provided. If there are material defects precluding live operation of the GEOLYTIC SOFTWARE and these have been notified in good time in the form prescribed for this purpose, renewed acceptance by the Customer is required after the defects have been remedied.
- (6) For the purpose of fault analysis and rectification of defects, the Customer is obliged to cooperate to a reasonable extent within the meaning of § 4 (e.g. provision of information material, access to business premises). If the fault analysis by GEOLYTIC shows that there is no defect which GEOLYTIC would be obliged to remedy, the expenditure incurred by GEOLYTIC in the course of the fault analysis may be charged to the Customer on the basis of the hourly rates applicable at

the time.

- (7) If the Customer unjustifiably fails to accept contractual services on time, or if the Customer is responsible for any defect in the provision of services, GEOLYTIC shall be compensated for the resulting damage. The same applies if, as a result of a neglect of duties to cooperate on the part of the Customer, the remedying of defects is made more difficult or existing damage is increased.
- (8) Network failures, disruptions, maintenance work or other unavoidable events for which GEOLYTIC is not responsible may result in interruptions in the provision of services. In such a case GEOLYTIC will make fair and conscientious efforts to remedy disruptions and interruptions as quickly as is technically and economically possible (best-effort principle).

§ 6 Copyright and use

- (1) All copyrights in the GEOLYTIC SOFTWARE and in the contractually agreed services (programs, documentation, etc.) remain, even after conclusion of the contract, the unrestricted property of GEOLYTIC or its licensors. All specifications, further developments and adaptations of the GEOLYTIC SOFTWARE or of programs based on it that result from the contractual relationship with the Customer shall pass into the intellectual property of GEOLYTIC or its licensors upon their creation. This also includes those rights which may arise worldwide from provisions of copyright law or other intellectual property law.
- (2) Within the scope of its contractual use, the Customer is not entitled to edit, alter or otherwise remodel the GEOLYTIC SOFTWARE (the right to set parameters remains unaffected), to pass it on to third parties or to decompile it into another form of representation. The removal, circumvention or alteration of copy or protection mechanisms, of program elements serving digital rights management (DRM), of security codes or of features serving to identify the GEOLYTIC SOFTWARE (ownership notices, trade marks, copyright notice) is likewise prohibited.
- (3) The Customer is not entitled to use the GEOLYTIC SOFTWARE outside the contractually defined purposes, to enable third parties not directly connected with the project to use the GEOLYTIC SOFTWARE, or to transfer it to third parties temporarily or permanently.
- (4) The Customer shall indemnify and hold GEOLYTIC harmless in respect of any failure to comply with these terms of use, in particular any infringement of copyrights or other intellectual property rights of GEOLYTIC or of third parties, whereby full satisfaction must always be provided in such a case.

§ 7 Remuneration, terms of payment

- (1) For the granting of the simple licence to use the GEOLYTIC SOFTWARE, GEOLYTIC charges an annual licence fee which is collected in advance starting from the first day of the month following the order. GEOLYTIC's pricing is based on the licence model provided. If the scope of use within the meaning of the licence model is increased, the costs are adjusted accordingly. The annual indexation of the licence costs and daily rates is governed by the contract.
- (2) Services pursuant to § 3 are invoiced monthly on the basis of the relevant agreement.
- (3) If the Customer requests services from GEOLYTIC (e.g. fault analyses) outside ordinary business hours, the following surcharges are invoiced on the basis of the daily rates applicable at the time and to be notified by GEOLYTIC: surcharges outside normal business hours 50%, on Sundays and public holidays 100%. "Ordinary business hours" within

the meaning of this provision are: Monday to Friday, 8:00 to 17:00.

- (4) All prices are in euros exclusive of value added tax. Any shipping costs are charged separately and apply only to the present order.
- (5) Claims for remuneration are in principle payable, following the invoice date, at the due date stated in the invoice or, in the absence of a due date, within seven calendar days of receipt of the invoice by the Customer. The invoice amount must be credited to the account stated in the invoice by the due date at the latest. Until full payment of the respective service (usage) fee due, GEOLYTIC may suspend the provision of those services in respect of whose remuneration payments the Customer is in default. In the event of default in payment, use of the GEOLYTIC SOFTWARE is permitted only revocably. If two instalments are not paid in the case of payment by instalments, GEOLYTIC is entitled to declare the entire outstanding amount due (acceleration).
- (6) The date of receipt of payment is the day on which the amount is available to GEOLYTIC or is credited for value to the bank account of GEOLYTIC stated on the invoice. In the event of late payment by the Customer, GEOLYTIC charges – unless higher costs have been incurred – default interest at the rate of 10% plus the current three-month EURIBOR p.a., beginning on the 15th day from the invoice date. For consumer transactions, the general statutory default interest rate of 4% p.a. applies. The reminder, information and other costs associated with collection shall be borne by the Customer. The right of GEOLYTIC to assert further claims for damages is not limited thereby.
- (7) For payment of the fees, the Customer must use either a payment slip or an electronic transfer (online banking), or must grant GEOLYTIC an authorisation for the collection of fee claims under the direct debit authorisation procedure. The Customer shall bear all charges arising in payment transactions.
- (8) The Customer waives the right to set off any counterclaims against claims for remuneration by GEOLYTIC, unless such counterclaims have been either acknowledged in writing by GEOLYTIC or established by a court. Furthermore, the Customer is not entitled to withhold payments on account of incomplete overall delivery, guarantee or warranty claims or complaints.
- (9) All tax liabilities arising from the contractual relationship with GEOLYTIC, with the exception of income tax, shall be borne by the Customer alone. The Customer shall indemnify and hold GEOLYTIC harmless against any unjustified recourse in respect of such taxes.
- (10) The payment terms determined for the overall order pursuant to § 7 (4) apply to partial invoices.

§ 8 Warranty

- (1) The services of GEOLYTIC are provided on the basis of generally applicable industry standards and practices. GEOLYTIC warrants that the GEOLYTIC SOFTWARE is in an operational condition at the time of performance and corresponds to the customarily expected characteristics and to the state of the art customary at that time. The Customer is aware, however, that owing to program errors it is not possible according to the state of the art to provide an entirely error-free computer service.
- (2) In addition, GEOLYTIC warrants within the framework of the statutory provisions that the rights of use of the GEOLYTIC SOFTWARE granted to the Customer pursuant to § 6 (1) are free of third-party rights which might conflict with use by the Customer in accordance with the contract. If third parties

assert claims or industrial property rights against the Customer, the Customer must inform GEOLYTIC thereof without delay. The Customer may not acknowledge third-party claims on its own initiative. GEOLYTIC will, at its own discretion, defend or satisfy the claims, or replace the service concerned with an equivalent service corresponding to the order, where this is acceptable to the Customer.

- (3) GEOLYTIC gives no warranty for faults or other service failures of the GEOLYTIC SOFTWARE
 - (a) which are based on faults in the hardware, the operating system or the software of other manufacturers not attributable to the sphere of GEOLYTIC;
 - (b) which were caused by application errors of any kind or by improper operation on the part of the Customer and which could have been avoided with proper and careful use;
 - (c) as a consequence of (i) altered operating system components, interfaces and parameters, (ii) use of unsuitable organisational resources and data media, in so far as such are prescribed, (iii) atypical operating conditions (in particular deviation from the installation and storage conditions) and (iv) transport damage;
 - (d) due to virus infestation or other external influences for which GEOLYTIC is not responsible, such as fire, accidents, power failure, etc.;
 - (e) due to transmission errors on data media or on the internet.
- (4) In so far as the subject of an order is the alteration or supplementation of already existing programs, the warranty relates to the alteration or supplementation. The warranty for the original program is not thereby revived. Programs which are subsequently altered by an employee of the Customer or by a third party are excluded from the warranty.
- (5) If, in the course of acceptance of the service by the Customer, any defects have been notified in good time and in the proper manner pursuant to § 5 (3) and confirmed by GEOLYTIC in the course of the fault analysis to be carried out, the Customer is entitled, within the statutory framework, to a reduction of the price or to rescission of the contract. Rescission and price reduction are excluded if GEOLYTIC primarily remedies defects by rectification or replacement within a reasonable period.
- (6) The presumption of defectiveness under § 924 of the Austrian Civil Code (ABGB) is excluded.
- (7) Costs for assistance, misdiagnosis and the elimination of faults and malfunctions for which the Customer is responsible, as well as other corrections, alterations and additions, are carried out by GEOLYTIC against charge. This also applies to the remedying of defects where program alterations, additions or other interventions have been carried out by the Customer itself or by a third party.

§ 9

Software support and maintenance

- (1) The software support provided by GEOLYTIC to the Customer and the performance of maintenance work relate primarily to the GEOLYTIC SOFTWARE and are made available according to the best-effort principle. GEOLYTIC assumes no support and no maintenance for third-party software or open source software unless an explicit agreement outside these GTC is concluded in this respect.
- (2) Software support and maintenance form part of the licence agreement and may be invoiced according to time and effort.
- (3) Software support comprises expert advice to the Customer by qualified employees of GEOLYTIC or of its partner companies regarding the use of the software forming the subject of the

contract. The advice may be given in whatever form is appropriate in each case, for example by email, by telephone, by video conference or at a personal meeting.

- (4) As part of maintenance, GEOLYTIC provides the Customer with program updates. These contain corrections of errors, rectification of any program problems (in particular security aspects) which occur neither during the trial run nor during practical use within the warranty period and, where applicable, improvements or extensions of the scope of services.

§ 10

Liability and damages

- (1) GEOLYTIC is liable within the framework of the statutory provisions for damage caused to the Customer by its governing bodies, employees, vicarious agents or other persons contractually engaged to provide services to the Customer only in so far as intent or gross negligence can be proven. Liability for slight negligence is excluded, subject to injury to life and limb.
- (2) Liability for indirect damage – such as loss of profit, costs associated with a business interruption, loss of data or third-party claims – is expressly excluded.
- (3) Compensation for damage, with the exception of personal injury, is limited vis-à-vis entrepreneurs to EUR 10,000.00 per damaging event.
- (4) Any claims for recourse which the Customer itself or third parties direct against GEOLYTIC on the grounds of product liability within the meaning of the Austrian Product Liability Act (PHG) are excluded, unless the party entitled to recourse proves that the defect was caused within the sphere of GEOLYTIC and was culpably brought about at least through gross negligence.
- (5) Events of force majeure which substantially impede or render impossible the provision of contractual services entitle GEOLYTIC to postpone performance of its obligations for the duration of such impediment plus a reasonable start-up period. Strikes, lock-outs, official intervention for which GEOLYTIC is not responsible and similar circumstances are equivalent to force majeure in so far as they are unforeseeable, serious and not the fault of GEOLYTIC. Liability of GEOLYTIC is likewise excluded in these cases.
- (6) In business-to-business transactions, any claims for damages by the Customer against GEOLYTIC become time-barred six months after the Customer becomes aware of the damage and of the party causing it.
- (7) In so far as the liability of GEOLYTIC is excluded under these GTC, this also applies to the liability of governing bodies, employees, vicarious agents or other companies and persons contractually engaged to provide services to the Customer.

§ 11

Data protection and confidentiality

- (1) GEOLYTIC accepts personal data of customers exclusively to the extent necessary for the provision of services by GEOLYTIC.
- (2) The Customer is solely responsible for all personal (user) data transmitted, used or processed in the course of the provision of services by GEOLYTIC, whether such data are sensitive data within the meaning of § 36 of the Austrian Data Protection Act or non-sensitive data.
- (3) The Customer is obliged to obtain the consent of the data subjects before any processing of (personal) data and to indemnify and hold GEOLYTIC harmless against any third-party claims in the event of a breach of this obligation.
- (4) GEOLYTIC and the Customer will treat as confidential all trade and business secrets of the other party which come to

their knowledge in the course of the business relationship and will use them only for the purposes of the respective contract. The recipient will not make such trade and business secrets accessible to any third party without the prior written consent of the other contracting party.

- (5) Upon termination of the business relationship, the Customer is obliged to return to GEOLYTIC or destroy all confidential documents received in the course of performance of the contract.
- (6) The obligations set out in § 11 (4) and (5) also apply to any vicarious agents, employees and partner companies of GEOLYTIC or of the Customer.
- (7) These confidentiality obligations continue to apply for a period of five years after termination of the business relationship.

§ 12

Loyalty

Both GEOLYTIC and the Customer undertake to act loyally towards one another. Subject to agreements reached by mutual consent, they will refrain from soliciting and employing, including through third parties, employees of the other contracting party who have worked on the realisation of the orders, during the term of the contract and for 3 months after termination of the contract. In the event of a failure to comply with the loyalty obligation, the party in breach of contract shall pay liquidated damages in the amount of one quarter of the annual salary of the employee solicited.

§ 13

Prohibition of assignment

The transfer of this contract and the assignment of rights and obligations under this contract are not permitted without the written consent of the other contracting party.

§ 14

Final provisions

- (1) These GTC are governed by Austrian law. The application of the UN Convention on Contracts for the International Sale of Goods is excluded.
- (2) In the event of disputes arising from this contract which cannot be settled by mutual agreement, the contracting parties agree to call in registered mediators specialising in commercial mediation for the out-of-court settlement of the conflict. Should no agreement be reached on the selection of the commercial mediators or on the substance of the matter, legal steps will be initiated at the earliest one month after the failure of the negotiations.
- (3) For any disputes arising from or in connection with these GTC, the jurisdiction of the court competent for commercial matters in Wels is agreed.
- (4) GEOLYTIC is entitled to amend these GTC at any time and will inform the Customer in writing of the amendments and of the date on which they are intended to take effect at least one month before that date. The Customer may object to the amendments. If no objection is made by the date on which the amendments are intended to take effect, the amended GTC take effect on the date notified.
- (5) Amendments and additions to these GTC and other agreements are valid only if they have been confirmed in writing by GEOLYTIC.
- (6) Should individual provisions of the GTC be or become invalid or unenforceable, the validity or enforceability of the remaining provisions shall not be affected thereby. The invalid or unenforceable provision is to be replaced by a valid and enforceable provision whose economic purpose and economic result come as close as possible to those of the provision to be replaced and which does justice to the original intention of the

contracting parties. The contracting parties undertake to record and sign such replacement provision in writing without delay.

This is a courtesy translation of the German "Allgemeine Geschäftsbedingungen für IT-Dienstleistung und die Nutzung der Software GEOLYTIC-SOFTWARE". In the event of any discrepancy, the German version prevails.