

General Terms and Conditions for the Provision and Use of Geospatial Data of the

*“Zentrale Stelle SAPOS® (ZSS)” of the German Laender
established at the Land Lower Saxony, represented by the
Agency for Geoinformation and State Survey of Lower Saxony -
State Survey and Geospatial Reference Information*

(General terms and conditions of business and use - AGNB)

*This Document is written in German and English.
In the event of any contradictions between the
German text and the English text of this
Document, the German text prevails.*

1. Scope

- 1.1. Supplies and services of the “Zentrale Stelle SAPOS® (ZSS)” (Central Office for Satellite Positioning Service of the Official German Surveying and Mapping) of the German Laender, established at the Land Lower Saxony, represented by the Agency for Geoinformation and State Survey of Lower Saxony – State Survey and Geospatial Reference Information (hereinafter: Licensor), and the use of geospatial data of the Licensor in any form (e.g. digital, analogue, online, offline, in services, in products) shall be provided on the basis of the following terms and conditions in the version valid at the time of supply, service and/or use. Different stipulations shall only be valid if they have been agreed in writing between the Licensor and the User (hereinafter: Licensee or Purchaser) or the Licensor makes the geodata available on the Internet with reference to different regulations for use. For digital geospatial data provided under open data conditions and freely accessible geospatial data services of the Licensor, with the exception of personal data, special terms of use apply instead of the AGNB. General business terms and conditions of the Licensee or Purchaser shall not be accepted by the Licensor.
- 1.2. An amendment to the AGNB including an outline of the modifications made is notified to contract customers by email with reference to article 308, no. 5, of BGB (German Civil Code). On expiry of an appropriate deadline for filing objection, specified in the respective notification, the amended AGNB version is deemed as accepted in the contractual relationship (constructive acceptance), unless the contract customer exercises his right to objection within the specified deadline. This consequence is referred to specifically in the email.

2. Legal Notice

- 2.1. The Licensor holds all rights of the geospatial data it provides. In particular, the Licensor holds copyrights to cartographic works, rights to aerial photographs and the rights as database producer according to the German Act on Copyright and Related Rights (Copyright Act, UrhG). Moreover, the geospatial data is subject to the provisions of Laender Laws on State Survey and Cadastre. Any use of the geospatial data beyond the conditions specified below shall only be permissible with the written approval of the Licensor. Violations shall be subject to fines pursuant to the Laender Laws on Surveying and Cadastre and subject to penalties pursuant to articles 106 ff. of UrhG (Copyright Act).
- 2.2. The Licensor has the rights to provide further geospatial data, which it provides on behalf of third parties. The Licensor indemnifies the Licensee from any claims for damages by a third party regarding the rights to the provided geospatial data.
- 2.3. The provisions of the Laender Laws on Surveying and Cadastre, the Data Protection Act of the Federal Government of Lower Saxony as well as the General Data Protection Regulation apply in case of processing of personal data of the real estate cadastre.

3. Conclusion of a Contract

A contract between the Licensee and the Licensor shall only be concluded by entering into a written licence agreement, by means of a written or electronic order confirmation by the Licensor or by the Licensor fulfilling an order.

4. Special features for consumers

- 4.1. If the Licensee is a consumer, he is entitled to withdrawal right pursuant to article 312g of BGB (German Civil Code). A consumer means any natural person who enters into a legal transaction for purposes that are predominantly outside his trade, business or profession.

- 4.2. For information on arbitration bodies to settle consumer disputes see <http://ec.europa.eu/odr/>. Our email address is: sapos-zentrale-stelle@lgl.niedersachsen.de.
- 4.3. It should be noted that in case of an arbitration proceeding, the Licensor refuses to participate in such proceeding.

5. Dispatch and Data Transfer

- 5.1. The dispatch of analogue products shall be carried out at the expense and risk of the Purchaser. If the Purchaser is a consumer, the risk of accidental destruction and accidental deterioration passes to the Purchaser upon delivery of the sold analogue products.
- 5.2. The ownership of the products shall remain with the Licensor until full payment has been received.
- 5.3. The Purchaser shall be obligated to check deliveries for completeness immediately after receipt. Incorrect or incomplete deliveries or other obvious defects shall be notified within two weeks of receipt. The geospatial data shall be checked within three months of receipt. Hidden defects shall be notified immediately after they have been detected within one year of receipt of the delivery. Complaints shall only be considered if submitted within these time periods.
- 5.4. If the purchaser is a consumer, he shall lodge any claims within two years of receipt of the delivery. If notice of defects has been given in due time and for justified reasons, he shall be entitled to legal rights. However, he can only claim compensation for damages – without prejudice to no. 8.2 – if he has given notification of the defects within one year of receipt of the delivery.

6. Usage

- 6.1. The Licensee shall receive the non-exclusive and, with the exception of no. 6.6, non-transferrable right to use the geospatial data provided by the Licensor
- in the Licensee's internal sphere. This also includes putting the data on a local network of the Licensee and copying the data for internal use. It is not permissible to permanently store geospatial data that is received via view services,
 - to integrate them in modified form (enrichment) into Licensee's own derived products or derived services, to deliver it together with these products or services to end users and to grant them an internal right of use for the derived products or derived services concerned,

- to present the geospatial data at exhibitions, etc., in which he is participating as an exhibitor or organizer and
- to use the geospatial data for teaching purposes in classes or in courses.

- 6.2. The Licensee shall take suitable measures to ensure that third parties do not have access to the geospatial data and that employees of the Licensee cannot use it for their own purposes or give third parties access to it. The Licensee shall inform the Licensor on request of the measures taken.
- 6.3. In each case of external use, the Licensee shall be obligated to state a clearly visible specification of the source, which shall be indicated as follows: © GeoBasis-DE / LGLN <year>
- 6.4. The Licensee shall take the necessary contractual or technical precautions to ensure that the geospatial data integrated in the Licensee's derived products and derived services cannot be separated, extracted and used independently by third parties. The Licensee is not entitled to transfer the geospatial data provided in its original form as raw data as an independent product.
- 6.5. The transfer of geospatial data to a contractor of the Licensee is permissible if and as long as this is necessary for use pursuant to no. 6.1 or another agreement.
- 6.6. In the event that geospatial data is transferred to a contractor, the Licensee shall require the contractor to commit in writing to use the transferred geospatial data exclusively for processing the order, to by no means allow third parties access to it and after fulfilment of the order, to delete any remaining geospatial data, including intermediate products, working copies and similar material.
- 6.7. The Licensee indemnifies the Licensor from any claims by third parties to the extent possible under law.

7. Fees

- 7.1. The provision and use of the geospatial data are subject to charge, unless otherwise agreed. The amount of charges/fees shall be calculated according to the AdV Fee Directive (AdV-GR) in the version valid at the time the geospatial data is distributed or used. The Licensor shall inform the Licensee of any amendments to the relevant regulations not later than three months prior to their coming into effect. In the case of an increase of more than 2 % in the charges/fees, the Licensee shall be entitled to a special right of

termination up to the time when the increase comes into effect.

- 7.2. The amount shall be due at the time of receipt of the invoice. If the invoice does not state a different term of payment, it shall be payable within 30 days of receipt without deduction.

8. Warranty, Liability

- 8.1. The Licensor shall provide the geospatial data with the due care necessary in the fulfilment of its public duties. The availability and quality of the geospatial data shall be subject to the specifications announced. However, the Licensor shall accept no responsibility or liability for the data being up to date, correct and complete nor for the services being permanently available. The Licensor shall announce any planned changes concerning the provision of the geospatial data as early as possible prior to their implementation in a suitable manner, if it can be assumed that the changes are not merely insignificant from the Licensee's point of view.
- 8.2. The Licensor shall be liable for damages arising from the use and further application of the geospatial data only in the event of an intentional breach of duty or gross negligence by a legal representative or vicarious agent of the Licensor. The Licensor shall also be liable for damages to life, body or health as well as for damages arising from the violation of essential contractual obligations (obligation whose fulfilment is essential to the proper implementation of the contract and on whose fulfilment the contractual partner ordinarily relies and may rely) even in the case of simple negligence. In the latter case, liability shall, however, be restricted to the replacement of predictable, typically occurring damage. The Licensor shall not accept any liability for the loss of data in so far as the damage is attributable to the fact that the Licensee or the Licensee's contractor failed to perform data backups and thus ensure that lost data may be recovered with reasonable effort.
- 8.3. The Licensee shall be liable to the Licensor for violations against these terms and conditions of use, especially for damage arising in the event of the Licensee or the Licensee's personnel using or transferring geospatial data or access codes for services in a way that is contrary to the terms agreed.

9. Processing of Customer Data

The information about the processing of customer data of the Licensee can be found in the privacy policy of the Agency for Geoinformation and State

Survey of Lower Saxony, shown at www.lgln.de/datenschutz or are obtainable from the Licensor.

10. Final Provisions

- 10.1. The parties agree that if individual provisions should be invalid or unenforceable, this shall not affect the validity of these AGBN. In the event that individual provisions should prove to be invalid or unenforceable, the parties shall be obligated to work together in good faith to find an arrangement suitable for both sides. The latter shall also apply to closing possible gaps in the provisions.
- 10.2. If the contractual parties are business people, corporate bodies under public law or special funds under public law, or if at least one of the contractual parties does not have a general place of jurisdiction in Germany, the place of jurisdiction for all legal disputes in connection with the use of the geospatial data shall be Hannover. The law of the Federal Republic of Germany shall apply. The application of the UN Sales Convention is excluded.

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