

**TERMS OF USE**

**PTV XSERVER INTERNET**

Test phase

Karlsruhe, 12/12/2014

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# 1 Object of the Agreement

- 1.1 The PTV Planung Transport Verkehr AG, Haid-und-Neu-Str. 15, 76131 Karlsruhe ("**PTV**") operates the "PTV xServer Internet" Service. These are cloud-based software components for the independent development and provision of map-based applications and services (the "**Service**"). The main technical features of the Service are described on its website at PTV Developer Zone (<http://xserver.ptvgroup.com/en-uk/developer-zone/resources/ptv-xserver-internet/>). The test phase is exclusively provided for testing purposes of the Service.
- 1.2 The use of the Service is exclusively governed by these Terms of Use and any further agreements reached between the Client and PTV. The Client's general terms and conditions shall not be included in the Agreement unless PTV accepts such conditions in writing.
- 1.3 The use of this Service is only for companies and persons which use the Service to carry out their commercial or independent professional activity. PTV reserves the right to verify the entrepreneurial status of the Client and to demand appropriate proof.

# 2 Registration, Conclusion of the contract

- 2.1 Use of the Service is subject to registration. Registration is an offer from the Client to PTV to enter into a contract for the use of the Service ("**User Contract**") in accordance with the terms of use. PTV has the choice to accept or reject this offer.
- 2.2 Registration may only be performed by persons who are entitled to legally represent the company for which the use of the Service is to apply.
- 2.3 The data requested by PTV when registering ("**Registration data**") is to be entered in full and correctly. The Client is obligated to immediately adjust any later changes with reference to the registration data in the Service's customer centre. PTV shall use the Client's contact data saved in the registration data exclusively for all statements to the Client in connection with the use of the Service.
- 2.4 PTV shall confirm receipt of the registration by email ("**Registration confirmation**"). The registration confirmation shall contain a link which the Client must use to confirm that the email address provided is correct. The **Registration confirmation** shall be sent automatically and shall not signify PTV's acceptance of the Client's offer. The User Contract shall be concluded when PTV enables the Client's access to the Service.

- 2.5 The Client must specify a password during registration. The Client must treat this password as confidential and protect it against unauthorised access. The password may only be disclosed to those employees who are entitled to use the Service as part of their assigned tasks according to the agreed conditions regarding licences and/or users.
- 2.6 If the Client suspects that the password has been made known to a third party or that a third party is making unauthorised use of the Client's access to the Service, the Client is obliged to change the password immediately and to inform PTV in writing immediately.
- 2.7 If PTV has reasonable grounds to believe that a third party has unauthorised use of the Client's access, PTV is then entitled to block access until the issue is resolved.

### 3 PTV services, Rights to software and data

- 3.1 PTV shall make the Service available within the scope of PTV's operational capabilities. PTV may change the functions and features of the Service and remove or restrict individual functions. PTV shall only provide product support where agreed separately by the contracting parties.
- 3.2 The Service and data provided by the Service, in particular map data, are protected by copyright. In the relationship between the contracting parties, all rights to the software and data are held solely by PTV and its suppliers. Use of the software and data other than for the intended use of the Service, in particular the systematic exporting of data, the passing on of software or data to third parties and editing, are not permitted. Copyright notices and trade marks may not be edited or removed.
- 3.3 The Client receives access to information via the service regarding truck parking areas, service stations and rest stops in specific regions, which PTV obtains through the "Truck Parking Europe" service ("TPE Data"). Where the Client makes use of the TPE data provided by the service (e.g. within the framework of an application in accordance with § 5), they must observe the following provisions:
  - a) If the Client displays TPE data in a list, they must cite at the bottom of the list, in a manner that is clear and legible, the source for the data as "Source: [www.truckparkingeurope.com](http://www.truckparkingeurope.com)".
  - b) If the Client displays TPE data in the form of details about a truck parking area, they must display on each page in a clear and legible form as the source for the data "Source: [www.truckparkingeurope.com](http://www.truckparkingeurope.com)" as well as the Truck Parking Europe logo ("**TPE Logo**"). The Client can download the TPE logo at <http://ptv.to/tpelogo>.

- c) If the Client displays the TPE data in the form of a map, they must display the Truck Parking Europe icon ("**TPE Icon**") clearly and legibly on the map. The Client can download the TPE icon at <http://ptv.to/tpelogo>.
  - d) TPE data may only remain stored in the cache of the application for the duration of the data request. Otherwise item 3.2 applies to the rights of the Client to the TPE data.
- 3.4 The technical requirements for the use of the Service are described at <http://xserver.ptvgroup.com/en-uk/developer-zone/> in the **PTV xServer Internet** section entitled ("**System requirements**"). It is the Client's responsibility to ensure that it fulfils the technical requirements.

## 4 Payment

The Client shall not pay for the use of the Service during the test phase.

## 5 Applications

- 5.1 The Client shall be able to offer its own software programmes ("**Applications**") using the components and services provided by PTV. Applications must be developed in accordance with the accepted codes of practice. Standards common in the market must be adhered to.
- 5.2 PTV provides technical documentation together with interface descriptions and programming guidelines (together the "**Technical Documentation**") online at PTV Developer Zone (<http://xserver.ptvgroup.com/en-uk/developer-zone/resources/ptv-xserver/>). They form part of these Terms of Use and must be strictly adhered to by the Client. PTV informs the Client that non-compliance with the Technical Documentation may lead to Service malfunctions that may also affect other Clients.
- 5.3 PTV may request changes to Applications if the Applications impair the correct operation of the Service. The Client shall be obliged to implement PTV's change requests immediately.

## 6 Further user responsibilities

- 6.1 The Client may only use the Service in compliance with the contractual agreements and the statutory provisions. Data and Applications that the Client saves or provides using the Service must not breach applicable law, the principles of morality or the rights of third parties. Any saving or provision of data or Applications
- a) that are discriminatory, racist, incite violence or are inhumane,

- b) encourage or endorse criminal activity,
- c) contain pornography or breach the law for the protection of children and youth or
- d) infringe the personal rights of third parties

shall be prohibited.

- 6.2 The Client may not use any software or other technical devices that alter, expand or jeopardise the functioning of the Service. In particular, the Client may not attempt to access the Service using any technical means other than a standard Internet browser.

## 7 Term, Cancellation

- 7.1 The Agreement starts when the Agreement is concluded (s.2.4) and ends after 90 days. Either party may terminate the User Contract before the end of the term by providing two weeks' notice.
- 7.2 When the term has expired, the Client shall no longer be able to access the Service. The contractual parties may extend the contract by amicable agreement. To do this, the Client may place a corresponding order with PTV Sales Support two weeks prior to the expiry of the term. PTV shall not be obliged to extend the term. The Client shall be responsible for backing up its data prior to the expiry of the test period.
- 7.3 The right of extraordinary termination for good cause shall remain unaffected. Good cause for PTV shall exist in particular when the Client is in default of payment or significantly breaches these terms of use, in particular by using the Service in a way that breaches these Terms of Use, or disregards PTV's requests for changes in accordance with s.5.3.
- 7.4 Notices of termination shall be effective only in writing.

## 8 Warranty

- 8.1 PTV shall endeavour to provide the Service with as few disruptions as possible. Since the Service is still under development, errors cannot be totally ruled out. If the Service should have a defect, the Client shall immediately inform PTV with an exact description of the problem, including all information useful for resolving the error. PTV shall be responsible for a defect only if PTV has maliciously concealed it.
- 8.2 The Client is aware that Applications with maps, traffic data and forecasts as well as additionally provided data content or databases, e.g. toll information, emissions,

speed limits, truck features, long postcodes and POIs can never completely illustrate the actual circumstances as a time delay between a change in circumstances and their inclusion in the application/database cannot be ruled out for technical reasons. Such deviations are not errors.

## 9 Damages and Compensation of expenditure

- 9.1 PTV shall be liable for damages and compensation of futile expenses for whatever legal reason, according to the following rules only:
- a) Statutory provisions shall apply in case of intentional and grossly negligent actions by PTV, its legal representatives, vicarious agents or executive employees or in the case of a guarantee expressed by PTV.
  - b) In case of the simple negligent breach of duties, the fulfilment of which are required for the due execution of a contract and the observance of which the contracting parties rely on and may rely on and the violation of which jeopardises the purpose of this Agreement (cardinal obligation), PTV shall bear liability for the typical damage foreseeable at the time of conclusion of the Agreement.
  - c) Any further liability on the part of PTV for slightly negligent behaviour is excluded.
- 9.2 Only statutory provisions shall apply in the case of injury to life, limb and health as well as claims based on the German Product Liability Act.

## 10 Data security, Data protection

- 10.1 PTV shall process the registration data and all other data that the Client transmits to PTV as part of the use of the Service, for the sole purpose of establishing, performing and ending the Agreement and the intended operation of the Service. Further processing of personal data (e.g. for the transmission of information through PTV's products and services) shall be carried out only if the Client has agreed to such processing. Details of data processing are described in the **Annex Data Privacy**.
- 10.2 If the Client processes data with the help of the Service that refer to an identified or identifiable person (personal data within the meaning of s.3(1) of the German Federal Data Protection Act (BDSG), the Client alone shall be responsible for ensuring that the person concerned in each case has agreed to its data being processed or that there is statutory authorisation. The Client shall always remain the sole party responsible for such personal data. The Client shall exempt PTV from all claims of the person concerned and shall compensate PTV for any damage caused to PTV due to the transfer of personal data to PTV which violates data

protection laws, unless the Client can prove that it is not responsible for this violation.

- 10.3 Upon the Client's written request, the contracting parties shall enter into an agreement on order data processing according to s.11 of the German Federal Data Protection Act (BDSG) in accordance with the **Annex on Order Data Processing** provided that it is required by legal provisions.

## 11 Conclusion

- 11.1 Statements, which must be made in writing in accordance with these Terms of Use, can be sent by fax. The Client may also send written statements in the form of a message to the Service's customer service centre. PTV may also send written statements by e-mail to the e-mail address provided in the Client's registration data. Statements from the Client must be sent to the following address: PTV AG, Haid-und-Neu-Str. 15, DE-76131 Karlsruhe, Fax: 0049 721 9651 699.
- 13.2 This Agreement is governed by German law. The application of the UN Sales Convention is explicitly excluded.
- 13.3 Place of performance and jurisdiction for all arguments arising from and in connection with the Agreement for contracts with merchants is Karlsruhe.

## Appendices

Appendix PTV xServer internet Agreement on Order Data Processing:

<http://xserver.ptvgroup.com/index.php?id=967&L=0>

Appendix PTV xServer internet Data Privacy Statement:

<http://xserver.ptvgroup.com/index.php?id=966&L=0>