

Sample Licence Agreements „Geospatial Data“

version 4.2
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Please note:

Italic texts are optional or alternative proposals

Highlighted texts are placeholders

Blue: Only 'internal use' agreement

Red: Only 'external use' agreement

[]: Remarks

Agreements that have been drawn up on the basis of this sample always require a final review for the specific individual case (especially for completeness and consistency), since it is not possible to provide a universal sample for all conceivable cases. In individual cases, it may be necessary to regulate aspects beyond what is provided for in this sample. This is the responsibility of the authority using the sample for its purposes.

Licensor

GZ: Business reference

Address

Post code address

WWW

Licence Agreement concerning the Use of Geospatial Data of the Licensor

Between the **Free State ... / Land.../Free Hanseatic City .../Free and Hanseatic City ...**, (<https://www.auswaertiges-amt.de/blob/215370/ed5bf4fa7e416fdb633298a15560f3f6/englisch-data.pdf>) represented by the **Name of Licensor** (hereinafter called Licensor)

and

Name of the Licensee**Address****Post code Town**(hereinafter called Licensee¹).

1. Subject Matter of the Agreement

1.1. The subject matter of the agreement is

- the provision of geospatial data in any form (e.g. digital, analogue, online, offline, in services, in products) of the Licensor in accordance with the **Annex on Geospatial Data**, as well as
- the granting of the right to internal use of the geospatial data for internal tasks of the Licensee [in case of licensing internal and external use] *and*
- the granting of the right to external use of the geospatial data pursuant to the **Annex on External Use** by the Licensee for the following purpose of use: *copying / distribution / reselling / exhibition / public access / reworking (adaption) / creation of derived products or derived services with or without the right to sublicense [specifying of the external use]*.

1.2. *Internal use of geospatial data is exclusively for the following purpose: special purpose of use with restricted use.*

2. Rights and Duties of the Licensor

- 2.1. The Licensor provides the Licensee with the geospatial data pursuant to no. 1.1 for the first time at the latest **10 work days** after the signing of this agreement. *The following partial deliveries are agreed: [specific definitions].*
- 2.2. The Licensor provides the Licensee with updated data at the agreed intervals in so far as this is agreed in accordance with the **Annex on Geospatial Data**.
- 2.3. The Licensor informs the Licensee immediately *in written form* in the case of delay of delivery of the geospatial data, failure of the services used by the Licensee or data quality defects that have become evident.

¹ Including affiliated companies in accordance with articles 271 (2) and 290 of German Commercial Code (Handelsgesetzbuch - HGB), article 15 of German Stock Corporation Act (Aktiengesetz - AktG).

2.4. *[Rights that the Licensee has to grant to the Licensor, alternative clauses for PPP contracts]*

- a) *[in the case of transfer by the Licensee:]*
The Licensee grants the Licensor the right to use geospatial data and derived products of the Licensee **for test purposes within an appropriate scope** internally.
- b) *[in the case of exclusive distribution by the Licensor (service relationship):]*
The Licensor receives all rights to geospatial data enriched by the Licensee pursuant to no. 3.3.
- c) *[in the case of transfer in modified form (enrichment) by the Licensee and joint distribution:]*
The Licensor receives the right, in addition to the Licensee, to pass on geospatial data enriched by the Licensee pursuant to no. 3.3 to end users and sublicensees and to grant them **an internal right of use an internal and external right of use** for such geospatial data in accordance with this agreement.
- d) *[in the case of integration in products of the Licensee and joint distribution]*
The Licensor receives the right, in addition to the Licensee, to pass on to end users and sublicensees geospatial data integrated by the Licensee into its own products pursuant to no. 3.3 and to grant them **an internal right of use an internal and external right of use** for the products in accordance with this agreement.

3. Rights and Duties of the Licensee

- 3.1. The Licensee is granted a non-exclusive right, **restricted to the duration of the agreement without any limitations in time** to internally use the geospatial data in accordance with the **Annex on Geospatial Data** **to fulfil the purpose of use pursuant to no. 1.1.**

[Alternatively, in the case of exclusively external use]

The Licensee shall exclusively use the geospatial data provided internally in order to implement the specified purpose of use.

- 3.2. The Licensee commits to comply with the terms of use pursuant to the **Annex on the AGBN**, unless specified otherwise in this agreement. In the case of contradictions between this agreement and the **Annex on the AGBN**, the terms of this agreement shall prevail. Any kind of use going beyond the contents of this agreement and the conditions of use requires the prior written consent of the Licensor.

- 3.3. *[Alternatives for specifying the right of external use pursuant to no. 1.1]*

*The Licensee is granted a non-exclusive external right of use, **restricted to the duration of this agreement without any limitations in time**, to use the geospatial data in accordance with the terms of this agreement as follows:*

to provide it as information free of charge for end users.

to deliver it in unmodified form (reselling) for a consideration exclusively to end users (third parties) and to grant them an internal right of use for the geospatial data. Internal use by the Licensee is not permissible.

to integrate it in modified form (enrichment) into the Licensee's own derived products or derived services, to deliver it together with these products to end users (third parties) and to grant them an internal right of use for the derived products or derived services concerned.

to integrate it in modified form (enrichment) into the Licensee's own derived products or derived services, to deliver it together with these products to sublicensees (third parties) and to grant them an external right of use for the derived products or derived services concerned.

*The type and scope of external use by the Licensee are subject to the provisions of the **Annex on External Use**.*

- 3.4. *The granting of usage rights to third parties by the Licensee pursuant to no. 3.3 is effected in accordance with the terms of use defined in this agreement. The Licensee shall bind such third parties by contract to terms as restrictive as the terms contained in this agreement.*
- 3.5. *The Licensee may advertise the geospatial data pursuant to no. 3.3 in consultation with the Licensor.*
- 3.6. *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 pursuant to no. 3.3 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.*

- 3.7. *For external use of any kind, the Licensee shall include a clearly visible reference to the source in accordance with the **Annex on External Use**.*
- 3.8. *The Licensee indemnifies the Licensor from any claims by third parties to the extent possible under law.*

4. Joint Duties

- 4.1. The parties of this agreement will work together in a spirit of trust.
- 4.2. The parties of this agreement commit themselves to treat any non-public information that has been made accessible or become known within the scope of this agreement as strictly confidential and to use such confidential information exclusively for the purposes specified by the agreement and not to make it available, either fully or in part, directly or indirectly, to third parties (third parties within the meaning of this regulation include employees of the parties to the agreement not involved in this project). Individual pieces of information may be passed on to third parties with the written consent of the respective other party. These regulations do not apply inasmuch as a legal obligation to transfer the information to third parties exists (e.g. for reasons of fiscal law or pursuant to the German Federal Act Governing Access to Information held by the **Federal Republic of Germany the Land** [Freedom of Information Act], which states that information must be provided on request regarding the content, scope and period of use of the data provided as well as the amount of the fee to be paid for this purpose).

5. Financial Regulations

- 5.1. The amount of fees/charges at the time this agreement enters into force is obtained from the **Annex on Fees/Charges**. The Licensee commits to the correct and timely payment of the fees/charges arising.

Alternative: The provision and use of the geospatial data is free of charge.

- 5.2. *[For transfer in unmodified form (reselling)]
Billing is based on the Licensee's reselling sales revenue, which is reported **quarterly half-yearly annually** in accordance with the **Annex on External Use**. Such declarations are made one month after **Quarterly Accounts Half-yearly Accounts Annual Accounts** at the latest. The reports contain itemised lists in tabular form concerning data sales and rights of use granted to third parties with indication of **the respective user, the date of delivery and the extent of use (area, data)**, broken down into geographic reference data free of charge or chargeable, according to individual Laender laws.*

*[For transfer in modified form (enrichment) without the right to sublicense:]
Billing is based on the number/amount of uses as a derived product or derived service of the Licensee pursuant to the **Annex on External Use**.*

*[For transfer in modified form (enrichment) with the right to sublicense:]
Billing is based on the number/amount and kind of sub-licences of derived products or derived services of the Licensee pursuant to the **Annex on External Use**. **The Licensee must report the sublicensees (name, address) to the Licensor in writing.***

- 5.3. *In the case of the geospatial data being provided offline the invoicing by the Licensor is done directly with the data delivery.*

*[For transfer in EU member states and other countries with Reverse Charge]
As this is a provision of the geospatial data in a tax-free intra-Community delivery from Germany **to other EU member states / to Norway /...** [delete as appropriate or add as appropriate] - according to value added tax act - no value added tax will be charged (Reverse Charge).*

*[For transfer in other third countries]
The licensee commits himself to pay the Value Added Tax (VAT) in accordance with the tax regulations applicable at the company's headquarters autonomously (tax liability of the recipient of the services).*

*[For transfer in unmodified form (reselling):]
Reselling by the Licensee is invoiced based on the reports pursuant to no. 5.2 generally **[period]** after their receipt.*

*[For transfer in modified form (enrichment) with and without the right to sublicense:]
Transfer in modified form in derived products and derived services is invoiced **in advance as a flat fee for***

the year of use **unless other regulations are stated in the Annex on External Use.**

- 5.4. *Following the expiry or proper notice of termination of this agreement pursuant to no. 6.3., the Licensee retains the rights pursuant to no. 3 to the geospatial data that had been provided to him up until the expiry date and that has been correctly paid for in accordance with the conditions defined in the **Annex on Fees/Charges.***

6. Duration, Termination

- 6.1. This agreement will enter into force **upon the day of signature by the parties of this agreement on [date].** *With coming into force of this agreement, the previous agreement [name or number] between the Licensor and the Licensee of [date] will be cancelled.*
- 6.2. The duration of this agreement will be **five years one year.** The duration starts with its coming into force and after this period shall be extended by one year at a time.
- 6.3. Each party of this agreement can terminate this agreement in written with a period of notice of **six months** prior to expiry. After termination of the agreement, the rights and duties of the Licensee pursuant to **no. 2.4 and** no. 3 that are not limited in time continue to be valid with regard to the data provided.
- 6.4. The agreement can be terminated in writing without prior notice for a substantial reason by each party of this agreement. A substantial reason exists, in particular, if the respective other party infringes an essential obligation defined in the contract (*in particular nos. 2, 3 or 5.1. [as well as others, i.e no. 4.2])* and does not fulfil this obligation even after receiving two written requests. In the case of a general inability to pay or insolvency proceedings initiated against the Licensee no such written request is necessary
- 6.5. If the Licensor is entitled to terminate the agreement pursuant to no. 6.4 as a result of culpable conduct on the part of the Licensee, all rights granted to the latter will expire.
- 6.6. Existing payment obligations are not affected by the termination of the agreement.
- 6.7. *This agreement can be transferred without consent of the Licensee (insert name) with all rights and duties from the Licensor (insert name) to another organizational unit of the Land "name of Land" or another Land, which takes over the tasks of the central cross-national distribution agency "name of the central office" for the surveying authorities of the Laender of the Federal Republic of Germany.*

7. Contact persons

- 7.1. The Licensor appoints the following contact person:
- for contract-related issues: **Name, Telephone, Email, Address**
 - for technical issues: **Name, Telephone, Email, Address**
- 7.2. The Licensee appoints the following contact person:
- for contract-related issues: **Name, Telephone, Email, Address**
 - for technical issues: **Name, Telephone, Email, Address**

8. Final Provisions

- 8.1. Changes and additions to this agreement must be made in writing. The same applies to changing the written form requirement. No verbal collateral agreements have been made. *Clause 1.2 of the **Annex on the AGNB** is not affected.*
- 8.2. The parties agree that the invalidity or unenforceability of individual regulations does not affect the overall validity of the agreement. If individual regulations prove to be invalid or unenforceable, the parties undertake to work together in good faith to find an appropriate regulation for both parties. The latter also applies to the closing of any gaps or omissions.
- 8.3. *This Licence Agreement is written in German and English. In the event of any contradictions between the German text and the English text of this Licence Agreement, the German text prevails.*

9. Annexes

The following annexes constitute an integral part of this agreement:

Annex on Geospatial Data

Annex on the General Terms and Conditions for the Provision and Use of Geospatial Data (AGNB)***Annex on Fees/Charges******Annex on External Use******Annex on Data Format Description, Version X.X******Annex on the Translation of this Licence Agreement*****10. Signatures**

Place:

Place

Date:

Date

.....

Licensor

.....

Licensee

Name:

Name:.....

Title:

Title:.....

Annex on Geospatial Data for Licence Agreement: Example

No.	Geospatial Data	Type of Use	Data format	Data Up-date [interval]	Number of Affiliated Companies	Data Author / Provider	Other Remarks [Object areas / levels / level of accuracy]
1	Geographic reference data						
1.1	Digital Landscape Model ATKIS® (ATKIS® Basis-DLM)	Data supply	Shape	annual	2	Surveying agency	
1.2	Topographic Map (DTK) 1:50,000	Online retrieval	WMS				
1.3	Digital Orthophoto (DOP) 0.4m ground resolution	Online retrieval	WMS				
1.4	House coordinates (HK)	Online retrieval	WFS/G				
2	Thematic geospatial data						
2.1	Protected areas	Online retrieval	WMS			Environment agency	
2.2	Standard land value data	Online retrieval	WMS			Administrative districts	
3	Geoservices						
2.1	Information service e.g. BayernAtlas	Viewing			4	Surveying agency	
2.2	Order service ALKIS-online	Online retrieval	diverse			Surveying agency	
2.3	Web Mapping Service (WMS)	Online retrieval				Surveying agency / environment agency	
2.4	Web Feature Service / Gazetteer (WFS/G)	Online retrieval				Surveying agency	

Agreement area: Bavaria**Area:** 70500 km²

Annex on Geospatial Data for Licence Agreement: Example

Optional or as alternative to Overview: Detailed specifications

(if applicable, prepared automatically)

Data specification	
For Annex on Geospatial Data No.	
Product:	<i>DTK1000 – Digital Topographic Map 1:1,000,000</i>
Data type:	<i>Seamless geo-referenced raster data</i>
Content:	<i>Waters (layer 3) Relief (layer 4 + 12)</i>
Geo-referencing:	<i>Gauß-Krüger illustration in 3rd meridian strip (median meridian 9°) Bessel ellipsoid , Potsdam Datum</i>
Spatial division :	<i>Rectangle</i>
Rectangular box coordinate system:	<i>Gauß-Krüger illustration in 3rd meridian strip (median meridian 9°) Bessel ellipsoid, Potsdam Datum</i>
Area section (rectangular box):	<i>(3275550,5516756) : (3505469,5771691)</i>
Area:	<i>57489 km²</i>
Resolution:	<i>160 pixels/cm (406 dpi)</i>
Data format:	<i>TIFF-LZW, colour depth 8 bit, RGB palette</i>
Data carrier:	<i>CD-ROM (ISO 96609)</i>
Service and billing	
Type of data update:	<i>No update / total dataset / difference dataset</i>
Update interval:	<i>No update / 1 year / 2 years</i>
Number of affiliated companies:	<i>2</i>
Type of use:	<i>Data provision, online provision, viewing, reselling, enrichment</i>
Fees/charges	
First supply of data:	<i>€</i>
Supply of updated data: ²	<i>€</i>

²Fees/charges in accordance with the latest cost regulations at the time of conclusion of the agreement

Annex on Fees/Charges for Licence Agreement
Fees/Charges for Use pursuant to no. 5 of the Licence Agreement

No.	Geospatial Data	Type of Use	Number of Affiliated Companies of the Licensee	External Use (reselling, enrichment in derived products or services)				Remarks (dates of invoicing)
1	Geographic reference data							
1.1	Digital Landscape Model ATKIS® (ATKIS® Basis-DLM)	Data supply						
1.2	Topographic Map (DTK) 1:50,000	Online retrieval						
1.3	Digital Orthophoto (DOP) 0.4m ground resolution	Online retrieval						
1.4	House coordinates (HK)	Online retrieval						
2	Thematic geographic data							
2.1	Protected areas	Online retrieval						
2.2	Standard land value data	Online retrieval						
3	Geoservices							
2.1	Information service e.g. BayernAtlas	Viewing						
2.2	Order service ALKIS-online	Online retrieval						
2.3	Web Mapping Service (WMS)	Online retrieval						
2.4	Web Feature Service / Gazetteer (WFS/G)	Online retrieval						

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Annex on External Use for Licence Agreement

*[**optional**, for detailed description on type/scope/restrictions of external use]*

- Information/details on the form of external use:
(geospatial data, description of the derived products or/and services, restrictions on external use, etc.)
- Number of derived products or services
- Sublicensing of derived products or services
(number of sublicensees, name and address, transfer only to end users)
- Details on dates of invoicing (no. 5.3)
- Configuration of the source reference in derived products and services (no. 3.7)
- Individual arrangement