



**General Terms and Conditions according Geodata from Aerowest GmbH**  
**01-Jan-2009**

**A. General**

1. All offers, deliveries, electronic transmissions as well as the assignment of usage rights by Aerowest are without engagement, subject to the terms and conditions below.
2. Terms and conditions referred to on order forms, on confirmations of receipt or similar are herewith objected to; they are only valid in case of a written declaration of consent on the part of Aerowest.
3. Descriptions of products and services published on the internet as well as specifications of prices given within the scope of online order systems are without engagement. All offers and subsidiary agreements must be in written form in order to be valid.
4. "Geodata" refers to any aerial imagery, orthophotos, base data, maps as well as all other spatially defined two or three dimensional interpretations in the form of graphics, data or texts based thereon, presented or supplied by Aerowest
5. "Aerowest services" refers to any products and services distributed or presented by Aerowest by means of computers or other electronic systems or installations, in particular the internet-based services AeroView®, AeroDach® and AeroSolar.
6. The contractual relationship between Aerowest and the user commences upon acceptance of the membership application for Aerowest services, a purchase order, any other assignment or the provision of geodata of any form by Aerowest.

**B. Aerowest Services**

1. Aerowest allows registered users to access geo information via internet-based services, EDP-based aerial image terminals as well as, within the scope of dedicated licensing, the usage, processing and presentation of geodata for private purposes.
2. Every access to the Aerowest services is password-protected and confined to a defined circle of users. Registered users must not provide third parties with their access to the Aerowest services.
3. Aerowest shall be entitled to cancel or restrict access to the Aerowest services in their sole discretion.
4. Aerowest shall provide registered users of the Aerowest services with a standardised purchase order interface for geodata.

**C. Right of Use and Copyright**

1. All delivered data remain the property of Aerowest at any time and, in case of intermediation, the institution specified upon delivery respectively. Upon delivery solely the right of use under copyright law shall be granted.
2. The rights granted shall apply solely for the use within the agreed scope. On principle, an extension of the granted rights of use is subject to prior written agreement by Aerowest.
3. The user is neither entitled to make copies of the geodata on their own for the purposes of circulation or sale, nor to sell these copies or alter the geodata for the purposes of sale, nor to sell altered data sets. Presenting or making available georeferenced geodata via open networks, in particular the internet, Geo-Information-Systems or Map Services, is subject to prior written agreement by Aerowest.
4. The user shall be granted a simple, non-exclusive right to use the geodata transmitted by Aerowest. The right of use comprises the right of processing, alteration, presentation and copying for private purposes. The following scope of rights of use shall apply:

a) - EINZELLENZ (single license) -  
Aerowest Services allow image exports (PDF/JPG) up to a maximum size of 2.970 x 2.100 pixels. Aerowest entitles registered users within the scope of a Einzellizenz (single license) the right to use and present these images for the use for internal purposes (including Internet) without any fees, if embedded logos and copyrights remain apparent and clearly recognizable.

b) - SAMMELLENZ (collective license) -  
Within the scope of a Sammellizenz (collective license) the user acquires the right to process or alter in any other way the geodata, however solely for the use for internal purposes. The user is allowed to make available the geodata in databases, documentation systems or digital storage media, to transmit the integrated geodata electronically or in a similar way and use or present them on various workplaces in closed networks.

Furthermore, the conferment of the right of use within the scope of the Sammellizenz (collective license) entitles the user to transfer the geodata exclusively for the purpose of processing or interpretation for private purposes to third parties. The user must make sure that the geodata are deleted from the third party's storage media after processing and that they are not used for other purposes of whatever kind.

c) - INTERNET / MEDIENLIZENZ (internet / media license) -  
Within the scope of an Internet / Medienlizenz (internet / media license) the user acquires the right to process, alter or present the geodata via open networks, in particular the internet, open Geo-Information-Systems or Map Services.

Furthermore, the user is allowed to make available the geodata in open databases, documentation systems or digital storage media, to transmit the integrated geodata electronically or in a similar way and use or present them on various workplaces. Presentation in print media is authorized without limitation in circulation or format.

d) - VERTRIEBSLIZENZ (distribution license) -  
Within the scope of a Vertriebslizenz (distribution license), contrary to a Sammellizenz (collective license), the user in addition acquires an unlimited non-exclusive distribution right. The user is especially authorized to present, distribute or resale delivered geodata as well as derivative products as a whole or in any parts without limitation in circulation or format. Presenting or making available georeferenced geodata via open networks, in particular the internet, Geo-Information-Systems or Map Services, is granted without any restrictions.

5. The user is entitled to present or provide third parties with products derived from the geodata on their own responsibility provided that the aforementioned terms and conditions are not undermined thereby.

6. In case of reprint or publication of the geodata within the scope of these terms and conditions the user has the obligation to provide a copyright notice. Default copyright notice is provided upon delivery.

7. In case Aerowest issues to the user a license for third parties' geodata the special stipulations for licenses for third parties shall apply additionally and predominantly over these license terms and conditions.

8. In case the user breaches the rights of use granted by the respective agreed licence Aerowest shall be entitled to claim a fixed rate of damages amounting to five times as much as the regular user fee agreed upon, unless the user provides evidence that Aerowest did not sustain damage or only minor damage. The assertion of additional claims of damages on the part of Aerowest is reserved.

**D. Fees and Payment**

1. Binding prices for geodata or services rendered by Aerowest as a basic principle result from a written quote.

2. Invoices are payable immediately and without deduction upon delivery of the service to the user. Payments are effected according to the terms of payment agreed upon.

3. In the event and for the duration of non-payment on the part of the bank or in case of default of payment on the part of the user Aerowest shall be entitled to claim interest for delay at 3% above the prime rate of the European Central Bank.

4. For the duration of the delay of payment Aerowest shall reject processing other orders and reserves the right to block access to the Aerowest services until the user has fulfilled all payment obligations to Aerowest.

**E. Delivery**

1. For geodata the delivery date may vary depending on the size of the area to be processed. Binding delivery dates or periods may be agreed upon in written form.

2. Delays in delivery owing to force majeure and owing to events that do not merely temporarily significantly hamper or make impossible delivery and which are not attributable to Aerowest are not at the expense of Aerowest even in case binding terms and periods of delivery have been agreed upon.

**F. Warranty**

1. Aerowest shall not take responsibility for the suitability of the delivered data for the intended purpose of the user. Moreover, Aerowest shall not take responsibility for the technical requirements necessary for the use of the delivered data to be available on the user's data processing devices.

2. The data analysed by Aerowest are based solely on the photogrammetric material available at the point in time of the placement of the order. Aerowest shall not take responsibility for possible alterations of the objects mapped that have been made since the production of the aerial imagery. Other agreements concerning additional services, e.g. carrying out an on-site inspection, may only be additionally agreed upon in written form.

3. When ordering geodata the user must assure himself/herself of the correctness of the selected area. The polygon submitted by the user and digitalised in Aerowest services respectively is binding. Aerowest shall not assume any obligations to meet claims for any disadvantages that arise for the user due to erroneous orders or wrong area selections.

4. In case the delivered data carrier is faulty or the data stored on the data carrier are installed incompletely or deficiently Aerowest provides replacement or repair excluding all other warranty claims of the user.

**G. Liability**

1. Aerowest shall not accept damages claims by virtue of positive violation of a contractual duty unless the damage was caused with willful intent or gross negligence. This does not apply for damages claims based on mandatory legal provisions e.g. owing to lack of warranted characteristics or according to product liability law.

2. Aerowest is only liable for the loss of the user's data and their recovery if the loss of data is caused by a defect of the delivered data or the data carrier itself and if the loss of data could not be avoided by appropriate data backup measures on the part of the customer.

3. All users are obligated to use the Aerowest geodata only within the framework of applicable legal statutory regulations and legally allowed applications or products.

4. Aerowest shall assume no liability for claims of third parties of whatever kind and regardless of the reason of the arising of the claims that might result from the use of the geodata by the user.

5. The limitations of liability under the terms of the above paragraphs apply mutatis mutandis also for the personal liability of the clerks, employees, associates, representatives and subcontractors of Aerowest.

**H. Data Protection**

1. All user data collected by Aerowest are treated confidentially and are used only for internal purposes for the duration of the contractual relationship.

**I. Right of withdrawal**

1. Purchase orders for Aerowest geodata and services are processed on principle on the basis of a dedicated customer wish and cannot be cancelled free of charge.

**J. Other**

1. German law shall apply to these terms and conditions and to all contractual relationships between Aerowest and the user. Place of performance and legal venue is Dortmund.

2. Should one of the provisions, or part thereof, of these terms and conditions be invalid, this shall not affect the validity of the remaining provisions.