

## **PTV AMERICA, INC. END USER LICENSE AGREEMENT**

PLEASE READ THIS END USER LICENSE AGREEMENT BEFORE PURCHASING OR USING PTV AMERICA, INC. (“PTV”) SOFTWARE, DATA, DOCUMENTATION, OR OTHER INFORMATION (THE LICENSED MATERIALS” AS FURTHER DEFINED IN SECTION 1.2 BELOW), EITHER BY CLICKING AN ACCEPTANCE OR BY EXECUTING AN ORDER FORM OR STATEMENT OF WORK THAT REFERENCES TO THIS AGREEMENT. CUSTOMER AGREES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT WHICH GOVERN CUSTOMER’S PURCHASE AND USE OF THE LICENSED MATERIALS. IF CUSTOMER DOES NOT ACCEPT THE TERMS OF THIS AGREEMENT, THEN IT MUST NOT PURCHASE NOR USE THE LICENSED MATERIALS.

### **1 Parties, Scope**

- 1.1 This End User License Agreement (this “Agreement”) is made by and between PTV and such entity (the “Customer”) that receives and/or uses the Licensed Materials (as defined below) from PTV, and/or has entered into an agreement upon the delivery and use of such Licensed Materials with PTV or an affiliate, reseller or other contractual partner of PTV (a “Third Party Distributor”); provided that such agreement makes reference to this Agreement. The contractual parties of this Agreement shall be PTV and the Customer, even if the Customer received the Licensed Materials from a Third-Party Distributor.
- 1.2 This Agreement shall cover any software (“Software”), data and other information of PTV delivered to the Customer in a tangible (e.g., on a data carrier) or intangible (e.g., via download) form, whether protected by copyright or not, in any format (source code, object code, etc.) (collectively, the “Licensed Materials”). The Licensed Materials shall also include without limitation, all user documentation regarding the use of the Software, such as user guides, technical documentation, translation and/or other material (the “Documentation”).
- 1.3 Unless no agreement is made to the contrary (e.g., in a support or maintenance agreement), this Agreement shall also cover any Licensed Materials that were submitted to the Customer in the course of maintenance, or to remedy any bugs or defects.
- 1.4 All rights granted to the Customer under this Agreement are limited to:
- a) the version of the Licensed Materials initially delivered to the Customer; and
  - b) service packs to the Licensed Materials delivered to the Customer in the course of the fulfillment of warranty obligations (if any).

Updates and updated versions of the Licensed Materials may only be used if such updates or updated versions were delivered to the Customer under a maintenance

agreement and the Customer has paid any and all maintenance fees owed pursuant to such maintenance agreement.

## **2 Intellectual Property Rights, License**

- 2.1 All right, title, interest and intellectual property rights in the Licensed Materials (including but not limited to, copyrights, trademarks, service marks, patents, trade secrets, and ancillary rights) shall solely vest in PTV or its licensors.
- 2.2 PTV reserves the right to technically protect the Licensed Materials against illegitimate copying, use or distribution with security devices such as dongles, passwords or similar protections.
- 2.3 PTV hereby grants the Customer a revocable, non-exclusive and non-transferable (except as otherwise expressly provided herein) license and right to use the Licensed Materials solely for Customer's internal purposes (the "License"). The Customer agrees to uphold any contractual provisions and restrictions regarding the use of the Licensed Materials (e.g., limitation of the number of users, installations, term, territory area, scope, etc.) and agrees to use adequate technical measures to ensure compliance with such provisions and restrictions. The Customer shall be responsible and liable for any and all obligations hereunder and any acts and/or omissions of any users of the License.
- 2.4 The Customer's License shall commence pursuant to Paragraph 5 herein. For the Software, the Customer's right to use is limited to the object code version only and shall not include the source code. PTV shall not be under the obligation to provide the Customer with any source code.
- 2.5 PTV reserves all rights not expressly granted to the Customer hereunder, and any use of the Licensed Materials not explicitly allowed in this License Agreement is subject to the prior written consent of PTV, which PTV may give in its sole discretion.

## **3 Usage and Copy Restrictions**

- 3.1 The Customer has the right to make one copy of the Licensed Materials solely for its own security backup purposes. Any backup copy must be stored safely and must be labeled with a correct copyright notice, which may not be removed, altered or inhibited. The Documentation may only be copied for the Customer's internal purposes as necessary for use of the Licensed Materials.
- 3.2 Except as and only the extent permitted by applicable law, the Customer or any third party on Customer's behalf may not decompile, reverse engineer, disassemble, attempt to derive the source code of, decrypt, modify, translate or create derivative works of the

Licensed Materials, or any updates or new versions, or any part thereof. Any attempt to do so is a violation of the rights of PTV and/or of its licensors. The Customer may not rent, lease, lend, redistribute, sublicense, or outsource the Licensed Materials, or offer them as a software-as-a-service, or make the Licensed Materials available on a public network.

- 3.3 The Customer may not disclose, transfer, dispose of, resell or distribute any personal security information or security items related to the Licensed Materials such as passwords, user accounts, security tags, etc. (collectively, "Security Devices"), unless such Security Devices are necessary to properly operate the Licensed Materials.

#### **4 Transfer of Licensed Materials**

- 4.1 The Licensed Materials and any accompanying dongles are valid for use solely within North America and may not be transferred to locations outside of North America without PTV's prior written consent.
- 4.2 Except upon PTV's written consent and except as expressly set forth herein, the Customer may not transfer the Licensed Materials. Any permitted transfer is subject to the following provisions:
- a) The Customer may only transfer the whole License and installation of the Licensed Materials, and may not transfer any portion of such License, such as particular usage rights for a contractually agreed number of users, transactions, or items, etc. If the Licensed Materials are to be installed on a server and run on a designated number of Customer computers, the Customer may not transfer usage rights for a number of Customer computers without transferring the server installation.
  - b) Dongles may only be sold or imparted along with the associated Licensed Materials.
  - c) Any transfer must be of permanent nature, i.e., without any option or claim of the Customer to receive the Licensed Materials back after a fixed or variable period of time.
  - d) The transferee of the Licensed Materials must agree in writing to uphold all of the terms and conditions of this Agreement.
  - e) The Customer must notify PTV in writing of any such requested transfer and provide PTV with the details regarding the transferee.

#### **5 Commencement and Termination**

- 5.1 The License granted to the Customer pursuant to Paragraph 2 shall become effective as of the date identified in the Customer's order document (an "Order Form").
- 5.2 If there is an identified license term in the Order Form, this Agreement will terminate upon the expiration of such license term. PTV may terminate this Agreement upon written notice to the Customer for a breach hereof, or if any third party restricts, prevents or ceases to authorize the installation or use of the Licensed Materials. In addition, the

License shall terminate immediately and automatically upon any termination or expiration of this Agreement, or any breach by the Customer of the restrictions included herein, or any unauthorized use of the Licensed Materials.

- 5.3 Upon any such termination or expiration, the Customer shall no longer be permitted to use the Licensed Materials, the Customer must return to PTV all data carriers all dongles and all other devices received from PTV, the Customer shall delete or destroy any and all copies of the Licensed Materials in its possession, and an officer of the Customer shall promptly confirm in writing to PTV that such return, deletion and/or destruction was completed successfully.
- 5.4 Termination of this License or the Agreement shall not entitle the Customer to any refund, credit, or other compensation from PTV or from any third party.

## **6 Confidentiality**

For purposes herein, "Confidential Information" shall be all confidential or proprietary information or materials which have been or made available by PTV to the Customer in connection with this Agreement, whether provided orally or in writing, and in any form or media. The Customer shall hold the Confidential Information of PTV in trust and confidence and avoid the unauthorized disclosure or release thereof to any other person or entity by using the same degree of care as the Customer uses to avoid unauthorized use, disclosure, or dissemination of its own Confidential Information, and in no event less than a reasonable degree of care. The Licensed Materials are the confidential information of PTV. The Customer must inform and instruct its employees of this confidentiality obligation. Upon the written request of PTV, the Customer shall promptly return or destroy the Confidential Information, including all copies thereof.

## **7 Academic License/Classroom License**

- 7.1 PTV supports academic research and teaching by offering the Licensed Materials under specific terms and conditions under an "Academic License."
- 7.2 If the Customer obtains an Academic License from PTV, the Customer agrees to use the Licensed Materials solely for research and teaching purposes, and any commercial use is expressly prohibited.
- 7.3 Compliance with the Academic License is monitored by PTV by collecting usage data.
- 7.4 If the Customer has an Academic License, the Customer also has the option to receive a limited classroom version of the Licensed Materials (a "Classroom License") with an identified number of users on a semester-by-semester basis. Any commercial use of a Classroom License is expressly prohibited.

## **8 Training License**

PTV offers a version of the Licensed Materials for training purposes with limited functionality for download under specific terms and conditions under a "Training License." If the Customer obtains a Training License from PTV, the Customer agrees to use the Licensed Materials solely for training purposes only, and any commercial use is expressly prohibited.

## **9 Demonstration/Evaluation Version**

If the Customer receives a demonstration or evaluation version of the Licensed Materials (a "Demo Version"), any rights to use the Licensed Materials under such Demo Version shall be subject to the terms and conditions hereof, and shall end thirty (30) days after its delivery or download, unless otherwise agreed in writing by PTV. Notwithstanding anything stated in Paragraph 4 hereof, the Customer may not transfer any Demo Version of the Licensed Materials to a third party.

## **10 Geographical Restrictions**

- 10.1 The Customer acknowledges that the use of the Licensed Material may be subjected to specific geographical restrictions arising out of applicable foreign laws and regulations, which may be updated from time to time. It is the Customer's sole responsibility to acknowledge applicable foreign laws and regulations and ensure to comply with them during the duration of the license term.
- 10.2 Through the Service, PTV may provide the Customer with map data (among others) for the People's Republic of China in compliance with the use case and the terms of this Agreement. Should the People's Republic of China no longer enable map data provisioning, regardless of the legal basis, PTV shall notify the Customer promptly of the occurrence of such events in writing. Any warranty and/or liability claims by the Customer as well as the obligation to exempt from third-party rights shall not apply with regard to this paragraph 10. The contractually agreed compensation shall be reduced with effect as of the end of the exploitation rights. The reduction is based on the following remuneration models:
- 1) In case of monthly payments, the remaining month, during which the data can no longer be used, shall be credited according to the following formula: Days of the month that were overcharged \* cost per day for data according to quote = reimbursement
  - 2) In case of annual payments, the remaining months and days during which the data can no longer be used, shall be credited according to the following formula: (Days of the month that were overcharged for a pro-rata month \* cost per day for data according to quote) + (Months that were overcharged \* cost per month for data according to quote)

= reimbursement

- 3) If transaction packages are acquired, transactions not used during the license period will be credited according to the following formula: Price per transaction \* number of transactions not used as part of the acquired transaction package = reimbursement

Further claims by the Customer shall be excluded.

## **11 Payment; Audit Rights**

- 11.1 During the term of this Agreement, the Customer agrees to pay PTV for all fees associated with the Customer's License of the Licensed Materials in accordance with the terms of PTV's invoices.
- 11.2 During the term of this Agreement and for a period of two (2) years thereafter (the "Audit Period"), the Customer agrees to keep and maintain complete and accurate records sufficient to verify Customer's compliance with the terms of this Agreement, including without limitation, payment of applicable fees ("Records"). During the Audit Period, PTV (or a designated representative of PTV) may perform an inspection and audit of the Records, upon ten (10) days prior written notice to the Customer, regarding whether the Customer's use of the Licensed Materials is consistent with the terms of this Agreement. Any such audit will be performed during Customer's normal business hours and in a manner that does not unreasonably interfere with the Customer's normal business operations. The Customer agrees to cooperate with PTV (or its designated representative) during the conduct of any such audit.
- 11.3 If the audit shows that the use of Licensed Materials is inconsistent with the terms hereof or reveals underpayment by the Customer, the Customer shall promptly cure such inconsistency and/or pay any such underpaid amounts. PTV will bear the costs of the audit; provided, however, that if the audit reveals an underpayment by the Customer by more than five percent (5%), the Customer will reimburse PTV for the cost of the audit. Any other claims and remedies of PTV shall remain unaffected.

## **12 Contractual Penalty**

The Client shall pay to PTV for each instance of a culpable breach of the obligations pursuant to this Software License Agreement a reasonable contractual penalty to be determined by PTV and verified as to its reasonableness by the competent court in case of dispute. PTV reserves the right to claim further damages.

## **13 Limited Warranty; Indemnity**

PTV and the Customer each represent and warrant that it has the right, power and authority to enter into, and perform its obligations under, this Agreement, and each order form or statement of work related hereto. The Customer will defend PTV against any

claim, demand, suit or proceeding made or brought against PTV by a third party alleging that any of the data that the Customer uploads into the Software, or the Customer's use of the Licensed Materials in breach of this Agreement, infringes or misappropriates such third party's intellectual property rights or violates applicable law (a "Claim"), and will indemnify PTV from any damages, attorney fees and costs finally awarded against PTV as a result of, or for any amounts paid by PTV under a court-approved settlement of, a Claim, provided PTV (a) promptly gives the Customer written notice of the Claim, (b) gives the Customer sole control of the defense and settlement of the Claim (except that the Customer may not settle any Claim unless it unconditionally releases PTV of all liability), and (c) gives the Customer all reasonable assistance, at the Customer's expense.

## **14 Product-specific provisions; General Terms and Conditions**

The use of specific PTV products may be subject to certain product-specific license terms of PTV and/or third parties having rights in parts of the Licensed Materials ("Product-Specific License Terms"). Any such third parties may be, without limitation, open source software developers and/or map data providers. The website <http://vision-traffic.ptvgroup.com/de/drittkomponenten/> provides an overview with respect to third-party components and refers to the applicable Product-Specific License Terms. Product-Specific License Terms shall supersede the terms of this Agreement. In the event that maps of the Open Street Map ("OSM") project are used within the Licensed Materials, the Customer will enter into a direct legal relationship with the OSM licensor for the usage of OSM according to the license terms as stated within <https://opendatacommons.org/licenses/odbl/1.0/>. In addition, PTV's General Terms and Conditions [http://ptvtraffic.com/gtc\\_ptv\\_america\\_en/](http://ptvtraffic.com/gtc_ptv_america_en/) apply to the Licensed Materials and any services provided by PTV in connection with the Licensed Materials hereof.

## **15 Miscellaneous**

- 15.1 This Agreement shall be governed by, construed in accordance with, and subject to, the laws of the Commonwealth of Virginia, without regard to its conflict of laws principles. In the event of a dispute or claim arising under this Agreement, the parties expressly agree to the sole, exclusive and personal jurisdiction and venue of the federal or state courts located in Arlington County, Virginia. The prevailing party in any such dispute and/or proceeding shall be entitled to recover its costs and expenses incurred (including reasonable attorneys' fees and expenses) in any such dispute or proceeding. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement.
- 15.2 No amendment to, or any waiver of any provision in, this Agreement will be effective unless it is in writing and signed by the Customer and PTV.
- 15.3 The Customer agrees to comply with all applicable laws, rules, regulations and orders with respect to this Agreement and the Licensed Materials.

- 15.4 The Licensed Materials provided hereunder are “Commercial Items” as that term is defined in the Federal Acquisition Regulations (FAR) at 48 C.F.R. 2.101. If Customer is a unit or agency of the United States Government, the following applies: The Licensed Materials are provided with Restricted Rights. Use, duplication or disclosure by the Government is subject to restrictions as set forth in Subparagraphs (a) through (d) of the Commercial Computer-Restricted Rights clause at FAR 552.227-19 when applicable, or in Subparagraph 252.227-2013 of the Rights in Technical Data and Computer Software at DFARS, and in similar clauses in the NASA FAR Supplement.