

# General Terms and Conditions of the License Agreement

## 1. Object of the contract

- 1.1. EarthSideIO (hereinafter referred to as: licensor) transfers to the licensee against payment of a fee (license fee) the non-transferable right to use the software "EarthSide" according to the terms of this contract. All other rights to the software remain exclusively with the licensor.
- 1.2. By downloading (download) and/or installing (install) and/or using the software, the licensee declares that he/she agrees to these general terms and conditions and accepts them bindingly without restriction. These terms and conditions are an integral part of the contractual relationship between EarthSideIO and the licensee. Possible existing terms and conditions of the licensee or third parties are considered as not agreed upon, even if EarthSideIO does not contradict their validity separately in individual cases. Amendments and/or supplements to the license agreement or these GTC are only valid if they have been confirmed in writing by EarthSideIO. EarthSideIO cannot be held liable for any verbal agreements or concessions.
- 1.3. These terms and conditions can be changed unilaterally by EarthSideIO at any time and are valid for the entire duration of the business relationship between the parties and beyond.

## 2. Copyright

- 2.1. The software "EarthSide" is protected by copyright. The licensee expressly acknowledges this protection. The copyright includes in particular the program code, the documentation, the appearance of the software, the design of the user interface and other forms of presentation within the software. All rights resulting from the copyright are entitled to the licensor as manufacturer.
- 2.2. The EarthSideIO service and all content provided through this service are intended for the personal use of the licensee and may not be shared with persons outside the household of the licensee. Any reproduction, use, distribution, modification, or replay of the content of the software not expressly authorized is prohibited. Any use, even partial, outside of this license agreement and the usual intended purpose of the software is expressly prohibited.
- 2.3. The licensee undertakes not to decrypt or modify the program.

## 3. Rules of use of the "EarthSide" software

- 3.1. The licensee must be at least 18 years of age or have reached the legal age of maturity in their country to use the EarthSideIO services. Persons under 18 years of age or under the applicable age of maturity may use the Service only with the involvement of a legal representative, under that person's account and in compliance with the other terms and conditions of use.
- 3.2. The licensee is not entitled to sell or transfer the license during the cooldown of three months. The cooldown period starts as soon as the licensee binds the license to the account. Exceptions regarding reducing or even removing the cooldown won't be made. The licensee is not authorized to make changes to the software or to manipulate it in any way. **Any action in this regard will result in the immediate termination of the license and the blocking of all services of EarthSideIO. No refunds will be given for suspensions due to violation of this rule.**
- 3.3. EarthSideIO has strict rules regarding language and abuse of the internal chat system. The licensee agrees to treat other licensees within the service with the utmost respect. Abusive chats will not be tolerated. In the event of a violation of the above rules, a warning will be issued by direct message. A repeated violation may result in the termination of the license without compensation.
- 3.4. The licensee who creates an EarthSideIO account and who has paid the license fee has access and control over the EarthSideIO account. **The Licensee is responsible for all activities that take place via their EarthSideIO account.** To maintain control of the account and prevent anyone from accessing the account,

the Licensee should retain control of the EarthSideIO devices used to access the service and should not disclose the password or payment method details associated with the account to anyone. The Licensee is responsible for updating the information required in relation to their account. The licensor may lock the licensee's account to protect the licensee or EarthSideIO from identity theft or other fraudulent activities.

#### **4. Right of use and licence fee**

- 4.1. The licensor reserves the right to decide freely at any time, at which periods and to how many persons it offers licenses for the software "EarthSide" on its homepage. Basically the principle "first come first serve" applies. Interested parties are not entitled to the granting of licenses. The contract between EarthSideIO and the licensee only comes into effect with an explicit order confirmation by EarthSideIO.
- 4.2. The licensee is obliged to pay the licensor the agreed license fee step by step when purchasing the program online. Decisive for the amount of the initial license fee is the price quoted in the webshop at the time of the order. Only payments via the online payment service Stripe (with the usual credit and debit cards) or Apple Pay are accepted as payment.
- 4.3. The Licensee shall only receive a simple, non-exclusive right of use of the Software and the associated documentation for his own purposes, limited to a period of six months, upon complete and unconditional payment of the above-mentioned license fee.
- 4.4. **After expiry of the first month of use, the Licensee has the option of manually extending the license for another month for a further license fee.** The license extension fee shall be paid monthly in advance. Decisive for the amount of the license renewal fee, is the price quoted in the web shop at the time of ordering. Only payments via online payment service Stripe (with the usual credit and debit cards) or Apple Pay are accepted as means of payment. If the renewal fee is not paid before the license expires, the license will expire permanently on the last day of the one-month license period and the software may not be used anymore - subject to a new purchase.
- 4.5. If the license or the right of use is not extended or expires for any other reason, the Licensee must delete the Software as well as any backup copies and documentation made by him. The Licensor reserves the right to block the Licensee's access if the license expires and is not renewed.
- 4.6. The Licensee may not pass on the Software and the associated documentation to third parties, neither for payment nor free of charge. The Licensee may not rent, lease, hire out or otherwise pass on the Software. **EarthSideIO reserves the right to block users who violate this regulation without compensation and to block their access.**

#### **5. No guarantee for error-free and/or successful software**

- 5.1. The licensor is anxious to offer a software that works as well as possible and can be used widely, but does not give any guarantees in this respect. The licensor is further striving but not obliged to continuously update and improve the software (so-called updates). A valid license is a prerequisite for receiving updates (see Section 4 above).
- 5.2. The Licensee acknowledges that the creation of error-free computer software is not possible with the current state of technology. The licensor does not guarantee that the program is or will be free of defects or errors. The compatibility of the software with the hardware is the responsibility of the licensee. The licensee is aware that the **EarthSideIO software can currently only work with the Windows operating system. The licensee bears full responsibility for the proper installation and use of the software.**
- 5.3. **The licensee is aware that the software "EarthSide", if used correctly, can only increase the chance of making a targeted online purchase on specific websites. The software "EarthSide" does not guarantee any success or results. The licensor does not guarantee the functionality of the software in any other way.**

5.4. The licensee is aware that the software "EarthSide" is not compatible with all operating systems and not with all hardware devices.

## 6. Complete disclaimer

6.1. **Any liability for possible material defects, deficiencies in title or consequential damages** (e.g. loss of profit, loss of sales, liability claims of third parties, loss of data), which arise for the licensee from the installation or use of the software "EarthSide", is completely excluded by the licensor, as far as legally permissible. **EarthSideIO is especially not liable for medium or slight negligence and completely excludes liability for auxiliary persons.**

6.2. The licensor is not liable for data loss. No liability is assumed that the software is suitable for the purposes of the licensee and works together with software and hardware available at the purchaser.

6.3. EarthSideIO has not given the licensee any guarantees regarding functionality and compatibility of the software. EarthSideIO has not given the buyer any assurances about the product outside of these GTC.

## 7. Trial Licenses

7.1. EarthSideIO reserves the right to issue trial licenses for the software "Earthside" at its own discretion.

7.2. The trial licenses are limited in time and are also subject to copyright law (section 2 above). Trial licenses may not be misused. EarthSideIO reserves the right to take back and block trial licenses at any time. There is no claim to trial licenses.

## 8. Termination of the contract

8.1. Upon expiry or non-renewal of this License Agreement (Sections 4.3 and 4.4 above), the License Agreement shall automatically terminate. The licensee is prohibited from continuing to use the "EarthSide" software after the license expires or is not extended. After expiry of the licence, the licensee must remove the software from his computer system and destroy all copies of the program.

8.2. **The premature withdrawal from the contract by the licensee and the reclaim of already paid license fees are excluded.**

8.3. The licensor has the right to terminate the license agreement at any time for important reasons.

## 9. Data protection

The privacy policy of EarthSideIO applies.

## 10. Final provisions

10.1. Any amendment to this license agreement must be made in writing.

10.2. If individual provisions of this license agreement are invalid, the remaining provisions of the agreement shall nevertheless retain their full validity. The contracting parties shall replace the invalid provision by a valid provision which comes as close as possible to the intended economic purpose of the invalid provision and the originally agreed contractual balance. The same shall also apply to any contractual loopholes.

10.3. These General Terms and Conditions are translated into English. In case of contradictions or doubts, the German version shall prevail.

10.4. The place of jurisdiction for any legal disputes arising from this licence agreement shall be Bern. The legal relationship between the parties shall be governed exclusively by substantive Swiss law. This applies in particular even if the customer is domiciled abroad. The provisions of the Vienna Sales Convention (UN Convention on the International Sale of Goods of 11 April 1980) are excluded.

Bern, 1th January 2022