

## License Terms and Conditions of Use for smart.finder SDI

smart.finder SDI is an independent, copyright-protected technology component of con terra GmbH (the licensor) for the efficient search for geodata, services and documents. The lawful acquisition of the smart.finder SDI software entitles the licensee to use it in accordance with the licence terms and conditions of use specified below.

**By using the software, you accept these terms.**

**If you do not wish to accept these licence terms, you are not entitled to use smart.finder SDI.**

### 1 Scope of use

#### 1.1 Permitted Use

The Licensee is granted the non-exclusive, non-transferable, geographically unrestricted, network-compatible right of use of smart.finder, limited in time to the agreed period of use. The licensee has the following installation and usage rights:

- 1 installation (web application) on a web server
- 1 additional installation on a further server for the purpose of operation as an active/passive cluster (failover)
- 1 additional installation for stage or test environment
- The use for Application Software Providing (ASP) is only permitted with the purchase of the "ASP licence" provided for this purpose and to the extent defined therein.

Use of the smart.finder SDI is only permitted in conjunction with the simultaneous use of certain Esri standard software products, the (Esri) product scope<sup>1</sup> of which the licensor reserves the right to change at any time.

The use of the software in dynamically scaling operating environments (container / cloud) is permitted but requires a specific agreement with the Licensor.

A copy may only be made for security and archiving purposes, as a replacement or for troubleshooting.

The delivery of source code/object code is not obliged. The licensee shall receive (electronic) documentation. Furthermore, the use of smart.finder SDI by consultants and vicarious agents of the Licensee is permitted in accordance with these License Terms and Conditions of Use within the scope of the intended use. The Licensee shall install the software themselves, unless otherwise agreed.

Extensions or modifications of the smart.finder SDI software are only permitted using the interfaces specified in the documentation.

#### 1.2 Prohibited use

The licensee is not entitled to sell or transfer smart.finder SDI in whole or in part to third parties (can only apply to temporary licenses), to rent, lease, lend, commercially distribute, publish, reverse engineer, decompile or disassemble smart.finder, unless permitted by law.

Furthermore, the licensee is not entitled to use smart.finder SDI in whole or in part for commercial software or solution hosting services, unless this is permitted by law or the licensee has acquired a corresponding "ASP licence".

The right of use is subject to the proper payment of the licence fee. The Licensor is entitled to demand the return of the software and to terminate the licence agreement extraordinarily if the Licensee has not paid the licence fee within the set, reasonable payment period despite a reminder.

### 2 Period of use

**2.1** The period of use is limited to one contractual year, commencing on the 1st calendar day of the month following delivery of the software. The period of use shall be automatically extended by a further contractual year if it is not terminated in writing by the Licensee or Licensor three months before the end of the contractual year.

**2.2** This shall not affect the right of extraordinary termination (without notice). The period of use shall end by termination without notice by the Licensor, inter alia, if the Licensee (i) despite two reminders does not fulfil his obligation to pay the annual licence fee, (ii) uses smart.finder SDI in an unauthorised manner or by any other infringement of the copyright or right of use or

<sup>1</sup> currently ArcGIS Maps SDK for JavaScript

(iii) an application is made to open insolvency proceedings against the assets of the Licensee.

**2.3** At the end of the period of use, the Licensee is obliged to return the original data media to the Licensor and to uninstall/delete and irretrievably destroy all copies of smart.finder SDI including the documentation. Upon request of the Licensor, the Licensor may demand a written assurance of uninstallation and deletion from the Licensee.

### 3 Licence fee

The licence fee shall be paid annually in advance at the beginning of a new contractual year after receipt of the invoice.

### 4 Third-party Software - Open Source Software

The software may contain components of third-party software and/or open-source software for which separate licence conditions must be observed. Insofar as this is necessary for the lawful use of the software, the applicable third-party and/or open-source software licence conditions shall be listed in the software's "software\license\third-party" directory. The Licensee undertakes not to install the software until it also agrees to these third-party or open-source software licence conditions, which take precedence over these Terms of Use. If the Licensee rejects them, they shall refrain from installing and using the Software.

### 5 Warranty

**5.1** Within the warranty period, the Licensor shall be obliged to remedy defects in the software provided, including the documentation.

**5.2** Defects shall be remedied at the Licensor's discretion by means of free-of-charge rectification or replacement delivery. The Licensee is obliged to report defects in the software to the Licensor without delay. In doing so, the Licensee shall take into account the Licensor's instructions for analysing the problem within the scope of what is reasonable for the Licensee and shall forward to the Licensor all information available to the Licensee that is necessary to remedy the defect.

**5.3** Termination by the Licensee pursuant to Section 543 (2) Sentence 1 No. 1 of the German Civil Code (BGB) due to failure to use licences granted for a limited period in accordance with the contract shall only be permissible if the Licensor has been given sufficient opportunity to remedy the defect and this has failed. The remedy of defects shall only be deemed to have

failed if it is impossible, if the Licensor refuses to remedy the defect or if it is unreasonably delayed, if there are reasonable doubts as to the prospects of success or if it is unreasonable for the Licensee for other reasons.

**5.4** The Licensee's rights due to defects are excluded insofar as the Licensee makes or has made changes to the leased property without the Licensor's consent, unless the Licensee proves that the changes do not have any effects on the analysis and elimination of the defects that are unreasonable for the Licensor. The Licensee's rights due to defects shall remain unaffected, provided that the Licensee is entitled to make changes, in particular within the scope of exercising the right of self-remedy pursuant to Section 536 a (2) of the German Civil Code (BGB), and that these changes were carried out professionally and documented in a comprehensible manner.

### 6 Liability

**6.1** The Licensor shall be liable, limited to compensation for the foreseeable damage typical for this type of contract, for such damage that is based on a slightly negligent breach of material obligations by the Licensor or one of its legal representatives or vicarious agents. Material obligations are obligations the fulfilment of which makes the proper performance of the contract possible in the first place and on the observance of which the Licensee may rely.

**6.2** The strict liability of the Licensor according to § 536 a para. 1, 1st alternative BGB (German Civil Code) due to defects already existing at the time of conclusion of the contract is excluded. Liability for indirect damage and loss of profit, irrespective of the legal grounds, is excluded.

**6.3** The Licensee shall in particular also take reasonable precautions vis-à-vis third parties to prevent any unauthorised use of the smart.finder SDI in breach of copyright.

### 7 Maintenance and Support

The Licensor may, at its sole discretion, provide updates and upgrades of the Software to the Licensee. This includes all editions in the form of patches, updates, upgrades or releases. These are usually provided via download. The Licensee shall install these without delay and take (other) measures to correct errors without delay, unless this is unreasonable for the Licensee for reasons for which it is not responsible.

The Licensee is entitled to call up the support services hotline/consulting and answering written enquiries without troubleshooting.

## **8 Final Provisions**

**8.1** Amendments or supplements to this Agreement as well as to this written form requirement, the assurance of properties as well as guarantees must always be made in writing in order to be effective.

**8.2** Should any provision of this contract be or become invalid in whole or in part or should the contract contain a loophole, the legal validity of the remaining provisions of the contract shall not be affected thereby. The contracting parties shall be obliged to replace the invalid provision by a valid provision which corresponds to the sense and purpose of the invalid provision.

**8.3** The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods.