

PTV General Terms of Service

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1 General Provisions

- 1.1 These PTV General Terms of Service (“**Terms of Service**”) set forth the framework conditions for the contractual relationship between PTV Planung Transport Verkehr AG, Haid-und-Neu-Strasse 15, 76131 Karlsruhe, Germany (“**PTV**”), and companies using PTV software or data as a cloud service (“**Customer**”). Both PTV and the Customer are hereinafter referred to individually as “**Party**” and jointly as “**Parties**”.
- 1.2 PTV shall notify the Customer of any changes to the Terms of Service in writing, by facsimile or email. Where the Customer does not object to such changes within six (6) weeks from the date of receipt of the notice, the changes are deemed to have been consented to. In the event of any amendment to these Terms of Service, the Customer’s attention is specially drawn to its right of objection and to the legal consequences of silence. In the event that the Customer objects within the six-week period, the contractual relationship shall be continued under the previously applicable conditions. If an objection is raised, PTV shall be entitled to terminate the contractual relationship existing with the Customer and individual Subscriptions with one (1) months’ notice.
- 1.3 All services based on orders by the Customer on MyPTV as well as the corresponding use of the PTV Cloud Services, the website and the content shall be governed by these Terms of Service.
- 1.4 The offerings on MyPTV are directed exclusively to entrepreneurs within the meaning of sec. 14 BGB (German Civil Code). The PTV Cloud Services may only be used for commercial purposes. PTV reserves the right to verify the entrepreneurial status of the Customer and to request adequate evidence of said status.
- 1.5 Terms and conditions of the Customer do not apply regardless of whether or not PTV expressly objects to them in a particular case.
- 1.6 The User waives application of the requirements for electronic commerce according to sec. 312i (1) nos. 1-3 and sentence 2 BGB (German Civil Code).
- 1.7 Not all contractual documents can be provided in the respective national languages. The Customer agrees to contractual documents in English language.
- 1.8 All third-party providers and suppliers of PTV that are involved in the provision of services are included in the protective effects of this contract. The Customer or partner of PTV shall indemnify these third-party providers and suppliers against claims by third parties resulting from a breach of this contract, in particular these Terms of Service.

2 Definitions

- 2.1 “**Customer**” is an entrepreneur within the meaning of sec. 14 BGB (German Civil Code) who has purchased access to the PTV Cloud Service and uses it for commercial purposes and is therefore a commercial customer.
- 2.2 “**Data**” is digital content which PTV makes available to the Customer, including but not limited to geographical data, traffic data, additional data, point-of-interest and geodata.
- 2.3 “**MyPTV**” is the environment used for provision of the PTV Cloud Services.
- 2.4 “**PTV Account**” is the Customer’s personalized access to MyPTV and to the PTV Cloud Services and content offered thereon.
- 2.5 “**PTV Cloud Service**” is cloud-based software and Data provided by PTV to the Customer via the Internet in a public cloud, e.g. by means of an API.
- 2.6 “**Service Description**” contains the technical specifications and functionalities of the PTV Cloud Service as amended from time to time, available for each PTV Cloud Service at [MyPTV Service Descriptions](#).
- 2.7 “**SLA (Service Level Agreement)**” is the specification of the quality criteria (in particular but not limited to response times and availability) for recurring services to be provided by PTV for paid PTV Cloud Services.
- 2.8 “**Subscription**” is the conclusion of a subscription for the time-limited use of a PTV Cloud Service.
- 2.9 “**Third-Party Licenses**” means the licenses included in the PTV Cloud Service, which PTV has legally acquired from third parties and which include specific terms and conditions to PTV and to the Customer, as set forth in these Terms of Service, and which may be amended by the third parties from time to time, and any such amendments thus becoming part of these Terms of Service.
- 2.10 “**User**” is the owner of a registered MyPTV ID who uses the PTV Cloud Services either itself as Customer or in its position as employee or representative of the Customer.

3 MyPTV ID, ordering and contract conclusion

- 3.1 PTV Account
- 3.1.1 Any use of the PTV Cloud Services requires a registered MyPTV ID according to the applicable Terms for registration and use of a MyPTV ID.
- 3.1.2 The Customer is obliged to keep its MyPTV ID registration data up to date.
- 3.1.3 The Customer ensures that only authorized Users shall be provided with access to the PTV Cloud Service. The Customer shall take the necessary organizational and security measures to prevent unauthorized access to the PTV Cloud Service.

- 3.1.4 If PTV has reasonable grounds to believe that an unauthorized User or a third party makes use of the access to or of the PTV Cloud Service, PTV shall be entitled to block the Customer's access to the PTV Cloud Service until access by the unauthorized User or third party is prevented.
- 3.1.5 PTV reserves the right to restrict the Customer's access to certain areas of the PTV Account or to delete the PTV Account if there is reason to believe that the Customer has violated the Terms of Service.
- 3.2 Ordering
- 3.2.1 All offerings on MyPTV are non-binding; by placing an order on MyPTV, the Customer makes a binding offer to conclude a Subscription for a PTV Cloud Service. PTV reserves the right to decline the Customer's offer.
- 3.2.2 Without undue delay, PTV shall confirm receipt of the Customer's offer. A Subscription is not concluded and does not become effective until PTV submits acceptance of the order to the Customer by e-mail (order confirmation). The contract text is available for saving and printing, at the latest when a Subscription is concluded. The contract text will not be permanently saved by PTV and is not permanently accessible to the Customer.
- 3.2.3 All PTV Cloud Services provided on MyPTV may be booked exclusively via the ordering process on MyPTV.
- 3.2.4 In the customer center, the Customer can
- view its PTV Cloud Service Subscriptions;
 - create user accounts for specific Subscriptions, if available;
 - make changes to its registration data.
- Each User is a registered owner of a MyPTV ID who signed up for myptv.com and is bound by these Terms of Service.
- 3.2.5 Any statement in connection with a Subscription, whether written or verbal, made outside the ordering process on MyPTV is non-binding and subject to change.
- 3.2.6 The Customer's placed orders and its payment obligations cannot be cancelled and all amounts paid by the Customer are non-refundable.
- 3.2.7 Insofar as conditions are specified in the ordering process which are specific to a PTV Cloud Service, those conditions shall take precedence over these Terms of Service.

4 Commencement, duration and termination

- 4.1 Unless otherwise agreed, a Subscription comes into force upon acceptance of an order and shall remain in force for a period of one (1) month ("**Subscription Term**"). It is then extended for the duration of the respectively agreed Subscription Term, unless it is terminated with a notice period of five (5) days to the end of the Subscription Term. If the Subscription Term agreed with the Customer is of at least one (1) year, the notice period is thirty (30) days.
- 4.2 For upgrades (i.e. paid extensions of the scope of services, e.g. increase in volume or number of users, longer Subscription Term), the Subscription Term shall start anew from the date of the upgrade. The previous Subscription is charged pro rata temporis until the start of the extended Subscription Term.
- 4.3 Downgrades (i.e. reduction of the scope of services, e.g. reducing the volume, number of users or the Subscription Term) only take effect after the end of the current Subscription Term, i.e. the downgrade applies for the first time from the start of the extended Subscription Term.
- 4.4 The right to extraordinary termination for good cause remains unaffected for both Parties. In particular, a good cause for extraordinary termination exists for PTV if the Customer is in default of payment or if the Customer is in material breach of these Terms of Service, in particular by using the PTV Cloud Service in a way that contradicts these Terms of Service.
- 4.5 Upon termination of a Subscription, the Customer shall delete all software and data in connection with the PTV Cloud Service and shall return to PTV materials and documents provided by PTV in connection with the performance of the contract ("**Materials and Documents**"). Insofar as copies of the software and data, Materials and Documents are located on data processing systems of the Customer, including the data processing systems operated on its behalf, the Customer shall delete these software and data, Materials and Documents or have them deleted and shall confirm the deletion to PTV in writing.

5 Services provided by PTV, rights to software and data

- 5.1 PTV shall make the PTV Cloud Services available within the scope of its operational capabilities and in accordance with these Terms of Service. PTV may improve and extend the functions and features of and the access to the PTV Cloud Services. Upon deployment of the improvements and extensions, the modified PTV Cloud Service becomes object of these Terms of Service. As part of its general product policy, PTV is entitled to make further changes, additions and restrictions to PTV Cloud Services and to its product portfolio, especially to replace PTV Cloud Services and to discontinue individual PTV Cloud Services. PTV shall inform the Customer in text form at least three (3) months before implementing such change. The change is binding and thus an integral part of the contract if the Customer does not terminate the respective Subscription in text form at the time of implementation of such change.
- 5.2 All components of the PTV Cloud Service, including the software and the Data, are protected by copyright. All rights to the software and Data are held solely by PTV and its suppliers. Except as expressly stated herein, these Terms of Service do not grant the Customer any rights to, under or in any patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licenses in respect of the PTV Cloud Services or the Service Description. Use of the software and the Data for a purpose other than for the intended use of the PTV Cloud Service, in particular the attempted editing, transfer, resale or export of Data, are not permitted. Copyright notices and trademarks may not be edited or removed.
- 5.3 PTV hereby grants the Customer a non-exclusive, time-limited, non-transferable, revocable right to use the PTV Cloud Service during the Subscription Term.
- 5.4 The Customer shall comply with all applicable conditions, pertaining in particular to the contractually agreed use cases, the number of transactions and volumes, the number of Users, accesses or assets and territorial restrictions.
- 5.5 The Customer shall comply with the technical requirements and other technical specifications as set out in the Service Description for the PTV Cloud Service.
- 5.6 To the extent that PTV provides services – e.g. paid support services – in addition to any rights of use to the Customer, the rights of use and the respective services are individual service obligations, each of which exist separately and independently of the other service obligations and can be defined separately (“**distinct**”).
- 5.7 The PTV Cloud Service shall be provided to the Customer in its respective standard version without any adaptation or service being necessary or owed.

6 Third-Party Licenses

- 6.1 The PTV Cloud Service includes the use of third-party components and geodata for which the following Third-Party Licenses as amended from time to time are applicable:
- 6.1.1 Third-party components, available at [MyPTV Third Party Components](#).
- 6.1.2 Geodata
- ▶ **PTV Transportation Licensing Terms for Geodata**, available at [PTV Transportation Licensing Terms for Geodata](#);
- and
- ▶ **PTV Mobility Licensing Terms for Geodata**, available at [PTV Traffic Licensing Terms for Geodata](#),
 - ▶ When using maps from the Open Street Map Project (“OSM”), the Open Database License applies, available at [Open Data Commons](#).
- 6.2 PTV makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of any such software under Third-Party Licenses.

7 Usage fee and payment terms

- 7.1 For a Subscription, the Customer shall pay to PTV the contractually agreed usage fees. All prices are net prices excluding statutory VAT. The Customer shall bear all costs and fees generated by activated ID owners as Users of the Customer’s product instances. Activated ID owners shall act in compliance with the instructions given by and in representation of the Customer.
- 7.2 Usage fees for Subscriptions and subsequent Subscription extension periods must be paid in advance. Unless otherwise agreed, usage fees shall become due monthly on the first day of the respective Subscription Term for the current Subscription Term. Additional consumption-based fees are charged on a product-specific basis in accordance with the respective applicable conditions and shall become due after the respective Subscription Term. In the event of an extension of the Subscription, PTV may invoice consumption-based fees together with the usage fees for the respective current Subscription Term. PTV reserves the right to invoice usage fees for Subscriptions for periods of up to three (3) months collectively.
- 7.3 Usage fees are due immediately upon invoicing and are to be paid without deductions upon invoicing.

- 7.4 Available payment methods are identified in the respective ordering process. PTV reserves the right to adjust available payment methods at any time. All credit card payments are subject to validation and approval by the card issuer.
- 7.5 If payment for any amount due is not successfully settled by the Customer, due to expiration of a payment method, insufficient funds, or otherwise, PTV may deny the Customer use of the respective PTV Cloud Service until such payment due is successfully settled. The assertion of further rights shall remain unaffected. The Customer shall reimburse PTV in particular any costs of return debit notes and chargebacks.
- 7.6 The Customer may only offset payments with claims that have been ascertained by final judgement or recognized in writing by PTV. The Customer shall only be entitled to exercise a right of retention if the counterclaim is based in the same contractual relationship.
- 7.7 PTV shall be entitled to change the prices within the scope of its general pricing policy by means of a declaration in text form with effect from the next possible date of termination or expiry, subject to a notice period of three (3) months. Price adjustments shall not apply to periods for which the Customer has already made payments. The contract shall be deemed to have been amended accordingly.
- 7.8 Invoices are issued in electronic form only. The Customer is obliged to provide PTV with two (2) valid e-mail addresses for invoice transmission. The Customer shall inform PTV immediately of any changes. If a payment within the scope of SEPA B2B Direct Debit Procedure or the SEPA Core Direct Debit Procedure has been agreed, the notification period shall be reduced to at least one (1) banking day.
- 7.9 If the Customer is required by law to deduct or withhold taxes from any amount payable, the amount payable shall increase to the extent necessary for PTV to receive, after making all required deductions and withholdings, a payment equal to the amount which PTV would have received without such deductions or withholdings. PTV will support the Customer in order to achieve any withholding tax reduction under an applicable double taxation agreement.

8 Use of the PTV Cloud Services

- 8.1 The Customer shall use the PTV Cloud Services in accordance with the product specific Service Description and the SLA applicable to paid PTV Cloud Services.
- 8.2 The Customer is only permitted to carry out load tests within the framework of a fully transaction-based tariff. Such load tests consume billing-relevant transactions, i.e. transactions which are to be paid for. For all other tariffs, load tests are excluded, e.g. tariffs based on Users, assets or similar, even if the tariffs are partially transaction-based.

- 8.3 The Customer may only use the PTV Cloud Services in compliance with the Terms of Service and the statutory provisions. In particular, the Customer shall not use the PTV Cloud Services in connection with or for activities that are improper, unethical, infringing the personal rights of third parties or otherwise inappropriate.
- 8.4 The Customer may not use any software or other technical devices that alter, expand or jeopardize the functioning of the PTV Cloud Services.
- 8.5 Except as may be allowed by any applicable law, the Customer shall not
- ▶ attempt to copy, modify, duplicate, create derivative works from, frame, mirror, (re-)publish, disclose, download, display or translate all or any portion of the PTV Cloud Service in any form or media or by any means; or
 - ▶ attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the PTV Cloud Service.
- 8.6 In the performance of its obligations under these Terms of Service, the Customer undertakes to comply with all principles and requirements of PTV's Code of Conduct as amended from time to time, available at [PTV Group Code of Conduct](#).
- 8.7 The Customer shall ensure that activated Users comply with all obligations in connection with the use of the PTV Cloud Service as if the Users themselves were bound by these Terms of Service.
- 8.8 PTV Cloud Services are subject to certain technical limitations due to the way they are provided over the Internet, especially when posting requests and retrieving data. Within the framework of fair usage, access to the PTV Cloud Services shall be available to all Users to the same extent. Unfair use means that individual Users make excessive use of the PTV Cloud Services to the detriment of other Users. The User shall refrain from such unfair use. In order to ensure optimal performance for all Users and to prevent unfair use, PTV is entitled to take restrictive measures, e.g. by limiting the use of the PTV Cloud Service. PTV is entitled to temporarily or permanently block the PTV Cloud Service from the User if their unfair use seriously impairs the performance of the PTV Cloud Service.

9 Rights to Input and Upload Data

- 9.1 PTV is entitled to statistically analyze the data entered by the Customer into the PTV Cloud Service which is not personal data ("**Input Data**") in order to further improve the PTV Cloud Services.
- 9.2 For this purpose, the Customer grants to PTV and to PTV's affiliated companies a worldwide, royalty-free, perpetual, sublicensable and non-exclusive right to publish such Input Data within the context of the PTV Cloud Service, in particular to:

- a) store this Input Data on a PTV server or with a third party commissioned by PTV for the purpose of providing the PTV Cloud Services;
 - b) make the Input Data available to other Users with authorized access to that specific route via internet and/or an app;
 - c) process and duplicate the Input Data, provided that this is required for the operation of the PTV Cloud Service;
 - d) use this Input Data in anonymized form for the provision of other services and applications.
- 9.3 The Customer represents and warrants that it is entitled to grant PTV the aforementioned rights to the Input Data and shall indemnify PTV against all conflicting rights of third parties to the Input Data.
- 9.4 For selected PTV Cloud Services, the Customer can actively upload data bases, in particular transport models, to the PTV Cloud Service (“**Upload Data**”). The Customer shall ensure that it is authorized to use the Upload Data, i.e. the way in which the Customer uses the Upload Data including data input by the Customer or third parties. The Customer represents and warrants that it has obtained all authorizations and consents with regard to the Upload Data and shall indemnify PTV against all conflicting rights of third parties in connection with the Upload Data.

10 Availability and service credits

10.1 Availability

The availability of the PTV Cloud Service is determined on the basis of the following values which are calculated as a time percentage over a month, excluding the time slots reserved for Planned Maintenance:

- ▶ Gross availability in minutes: $VB = \text{number of calendar days per month} * 24 \text{ hours} * 60 \text{ minutes}$
- ▶ Maintenance in minutes: $WG = \text{Time for Planned Maintenance}$
- ▶ Net availability in minutes: $VN = VB - WG$
- ▶ Downtime in minutes: A
- ▶ Actual availability in percentage: $V = (VN - A) / VN$

The actual availability of the PTV Cloud Service is

V: 99.9%

PTV plans periodic proactive maintenance (“**Planned Maintenance**”) on the servers. In average, the interruption for a given PTV Cloud Service is likely to amount to one (1) hour per week per cartographic cluster. PTV Cloud Service interruptions superior to one (1) hour are usually notified seventy-two (72) hours in advance, barring emergencies which are handled immediately. The following definitions shall apply:

- The transfer point is the point of transition from the Internet to the servicing data processing centre (“**Transfer Point**”).
- The PTV Cloud Services are deemed available if the methods of the PTV Cloud Service interface or the application generate defined responses (“**Responses**”) to the defined requests (“**Requests**”) at the Transfer Point.
- Downtime is the time when a defined Request at the Transfer Point does not generate a Response.

10.2 Support

Support requests can be sent to support.community@ptvgroup.com.

10.3 Service credits

10.3.1 If PTV does not meet the indicated availability for the PTV Cloud Service including times for unavailability according to sec. 10.3.2, the Customer is eligible for a service credit for unavailability as described in this sec. 10.3.1.

The service credit as described in this sec. 10.3.1 is the Customer’s sole and exclusive remedy and PTV’s sole liability for unavailability of the PTV Cloud Service. Service credits are calculated as a percentage of the total fees the Customer owes to PTV for services each month as follows:

Total available uptime per month

- **100% - 99,9%:** 0% service credit
- **99,89% - 99,0%:** 10% service credit
- **Less than 99,0%:** 20% service credit

In order for PTV to consider a claim, the Customer must submit to PTV within thirty (30) days following the end of the unavailability a full report with all necessary information, in particular a detailed description of the incident(s), information about time and duration of the incident, a network traceroute, affected URL(s) and a description of all of the Customer’s attempts to resolve the incident at the time of occurrence. This report together with supporting evidence must be submitted within thirty (30) days following the end of the unavailability via email at ordermanagement@ptvgroup.com.

If PTV confirms that the uptime percentage in a month covered by the Customer’s claim for a service credit is below 99,9%, PTV will issue the service credit to the Customer.

Service credits (i) can be applied to any future invoices issued by PTV to the Customer (including Subscription extensions, subsequent orders and overages), (ii) cannot be exchanged for, or converted to, monetary compensation, and (iii) will expire without substitution if not used within twelve (12) months of being issued.

The maximum service credit that PTV will issue for downtime in a month is 20% of the fees the Customer otherwise owes PTV for the month covered by the Customer's claim for a service credit.

PTV shall evaluate all information available to it with due consideration and conduct an analysis of the service data in connection with the incident to consider the validity and scope of the Customer's claim.

- 10.3.2 In determining unavailability, a period of unavailability is excluded from consideration for a service credit if
- ▶ the unavailability is due to Planned Maintenance, provided the Planned Maintenance is notified to the Customer at least seventy-two (72) hours in advance;
 - ▶ the unavailability is due to the use of services, software or hardware not provided by PTV, e.g. software or services of the Customer or a third party;
 - ▶ the unavailability is due to acts or omissions of employees, agents, contractors or vendors of the Customer, or anyone gaining access to the Customer's PTV Cloud Service access via the accounts or devices of unauthorized users;
 - ▶ the unavailability is due to factors outside PTV's reasonable control, including but not limited to events of force majeure;
 - ▶ the Customer breaches the terms and conditions of the contract (including payment obligations to PTV).

11 Restrictions for the Trial Period

- 11.1 If available for the respective PTV Cloud Service, the Customer may use a PTV Cloud Service free of charge and exclusively for testing purposes ("**Trial Period**"). **Any commercial/operational use is excluded.** PTV may, at its own discretion, terminate the Trial Period for the respective PTV Cloud Service at any time without stating reasons. The Customer may terminate the Trial Period at any time; if necessary by deleting its PTV Account if no paid Subscriptions are in force.
- 11.2 During the Trial Period, PTV may at any time at its own discretion restrict, revoke or terminate the Customer's use of a PTV Cloud Service. PTV reserves the right to further restrictions with regards to number, scope, content and duration.
- 11.3 PTV does not provide any warranty with regards to the functional characteristics and availability of the PTV Cloud Service during the Trial Period.

- 11.4 PTV does not provide any product support during the Trial Period.
- 11.5 PTV does not assume any liability whatsoever under or in connection with the use of the PTV Cloud Services during the Trial Period. This exclusion of liability applies particularly to accidental damage, consequential damage, lost profits or business interruptions, regardless of whether or not the possibility of such damage is pointed out to the injured Party. This exclusion of liability, however, shall not affect the mandatory statutory liability in accordance with sec. 276 para. 3, 278 sentence 2, 599 BGB (German Civil Code).

12 Warranty

- 12.1 If the PTV Cloud Service has a defect or deviates functionally from the Service Description, the Customer shall immediately inform PTV with an exact description of the problem in text form, including all information useful for resolving the error. PTV will rectify correctly reported defects within a reasonable time. If attempts to rectify the defects fail and this represents good cause for the Customer, the Customer is entitled to terminate the Subscription without adhering to a notice period. The Customer is not entitled to reduce the usage fees because of defects. The right of the Customer to a partial or total refund of the usage fees on the principles of unjust enrichment in case of defects, is not affected by this. PTV shall pay compensation for damages or reimbursement of futile expenditures within the limits of sec. 13.
- 12.2 The Customer is aware that applications with maps, geographical attributes, points of interest, toll information, emissions, speed limits, truck features, long postcodes and other content as well as traffic data and forecasts never provide a perfectly accurate and complete picture of the actual circumstances, in particular because of the time delay between a change in the external environment and their inclusion in the PTV Cloud Service. Such gap between the actual circumstances and its rendering, and the resulting lack of quality, do not constitute a defect of the PTV Cloud Service.
- 12.3 If an alleged defect does not qualify for remediation by PTV (“**Apparent Defect**”), the Customer may be charged with the services rendered by PTV for verification and rectification of defects at PTV’s corresponding remuneration rates and expenses incurred, unless the Customer could not have recognized the Apparent Defect even if it had exercised due care.

13 Claims for legal defects

- 13.1 The PTV Cloud Services are free from any third-party intellectual property rights which prevent or limit the contractual use of the PTV Cloud Services. However, any claims for legal defects are always and exclusively limited to PTV Cloud Services in their stand-alone PTV standard version.
- 13.2 Claims for legal defects are excluded if the claims asserted by third parties are based on the Customer's use of the PTV Cloud Service which exceeds the use of the PTV Cloud Service expressly granted to the Customer under the contract.
- 13.3 If a claim for legal defects is raised against PTV, PTV shall be entitled to choose at its own discretion to
- ▶ obtain sufficient rights of use for the contractually agreed purpose from the third party holding the infringed intellectual property right; or
 - ▶ modify or replace the PTV Cloud Services – in particular to replace the PTV Cloud Services with a new version or another PTV Cloud Service – in such a way that it no longer infringes the intellectual property rights of third parties, if and to the extent that the specified functionalities are not significantly impaired.
- 13.4 The Customer shall inform PTV without delay of any claims raised by third parties for infringement of intellectual property rights, leave to PTV all decisions regarding the essential measures of defense and not make any acknowledgement or conclude any settlement regarding the claims without PTV's consent. Claims against PTV for legal defects are excluded if the Customer violates the aforementioned obligations.
- 13.5 The prescription period for claims for legal defects shall be twelve (12) months, unless PTV has fraudulently concealed the defect.

14 Liability, compensation for damages

- 14.1 PTV shall only be liable in accordance with the following provisions in (a) to (d):
- a) PTV shall be liable without limitation for damages caused by intent or gross negligence, damages resulting from product liability according to the provisions of the German Product Liability Act as well as for damages resulting from injury to life, body or health.
 - b) In the event of slight negligence in case of a breach of essential contractual obligations, PTV shall be liable for the foreseeable damage typical of the contract unless the claims for damages result from injury to life, body or health. Essential contractual obligations are those whose fulfilment is necessary to achieve the objective of the contract and on whose compliance the Customer may regularly rely. In these cases, PTV's liability is limited to the amount which the Customer has paid to PTV on the basis of the contract within the twelve (12) months before the claim arose.

- c) PTV shall be liable for damages caused by the absence of assured features up to the amount which was covered by the purpose of the assurance and which was recognizable for PTV when the assurance was given.
 - d) This sec. 14.1 shall also apply to the liability of PTV's legal representatives, officers and executives if claims are asserted directly against them.
- 14.2 PTV shall only be liable for the loss of data up to the amount which would have been incurred if the data had been properly and regularly backed up for the purpose of restoring them.
- 14.3 Any further liability on the part of PTV is excluded in principle.

15 Transfer and assignment, subcontractors, set-off

- 15.1 PTV may transfer the contractual relationship existing with the Customer and individual Subscriptions to a third party, unless the change of the contractual partner adversely affects justified interests of the Customer.
- 15.2 PTV reserves the right to involve subcontractors for the provision of services.
- 15.3 The Customer shall not be entitled to exercise a right of set-off or retention with respect to its payment obligations pursuant to these Terms of Service, except for any claims which have not been contested by PTV or which have been assessed by a final and binding decision of a court or arbitrator.

16 Data privacy and data security

- 16.1 PTV shall process the registration data and all other data that the Customer transmits to PTV in the course of the initialization and operation of the PTV Cloud Service. Further processing of personal data (e.g. for the transmission of information through PTV Products) shall be carried out only if the Customer has agreed to such processing. Details of data processing are described in the data protection statement as amended from time to time, available at [Data Privacy Statement PTV AG](#), product-specific at [Data Privacy Statement PTV Cloud Service](#), TOMS at [Data Protection: General technical and organizational measures](#).
- 16.2 If the Customer processes personal data while using the PTV Cloud Service, the Customer alone shall be responsible for ensuring that each individual person concerned has agreed to his/her data being processed, or that there is statutory authorization to this effect. The Customer shall always remain the sole party responsible for such personal data. The Customer shall exempt PTV from all claims of the person concerned and shall compensate PTV for any damage caused to PTV arising out of a violation of data protection laws, unless the Customer can prove that it is not responsible for this violation.
- 16.3 The Parties shall enter into an agreement on order data processing according to Art. 28 GDPR in accordance with the respectively applicable template, available at [Data Processing Contract PTV Cloud Service](#).

17 Final provisions

- 17.1 PTV shall be entitled to have the Customer's conformity of the actual use of the PTV Cloud Services delivered examined. The examination may only be carried out by an expert who is also bound to confidentiality vis-à-vis the Customer, who is not bound by the Customer's instructions and who may only disclose information to PTV if and to the extent that a licensing breach is detected and that such information is necessary for the enforcement of such licensing breach. In particular, the expert shall not be entitled to disclose any information at all if the licensing breach has been admitted and corresponding claims for damages have been satisfied. The Customer must be given at least two (2) weeks' notice of any such examination in text form.
- 17.2 The Subscription Term shall be extended by any period in which PTV is prevented, without itself being responsible, from providing the PTV Cloud Service particularly, but not limited to, through labor disputes, acts of god or any other unusual and unforeseeable events (collectively "**Force Majeure Event**") as well as an appropriate period for restarting after the end of the Force Majeure Event. If a Force Majeure Event lasts for more than three (3) months, each Party shall have the right to terminate the Subscription.

- 17.3 The Parties are aware that PTV Cloud Services may be subject to export and import restrictions. In particular, obtaining an approval may be required, or the use of the PTV Cloud Service or related technologies may be subject to restrictions abroad. The Customer shall comply with the applicable export and import control regulations of the Federal Republic of Germany, the European Union and the United States of America, as well as all other relevant regulations. Fulfilment of the Subscription is subject to national and international regulations of export and import law or other statutory provisions.
- 17.4 In particular, the Customer acknowledges that the use of the PTV Cloud Services may be subject to geographical restrictions resulting from applicable foreign laws and regulations, in particular those restrictions set forth under the following link: [Geographical Restrictions](#).
- 17.5 Should individual provisions of these Terms of Service be invalid, this shall not affect the validity of the remaining provisions. The Parties will endeavor to find a provision in place of the invalid provision which is legally and economically most appropriate to the objective of the contract.
- 17.6 The law of the Federal Republic of Germany shall apply, excluding the UN Convention on Contracts for the International Sale of Goods and private international law.
- 17.7 Place of performance for all obligations arising out of the contractual relationship is the registered office of PTV.