

DHI

GENERAL TERMS AND CONDITIONS FOR MARINE ANIMAL MOVEMENT PORTAL (“Terms”)

**These Terms apply to commercial use of the Marine Animal Movement Portal.
Please note that the webshop is for commercial use only and the
Terms do not adhere to the consumer protection regulations.**

The Marine Animal Movement Portal/webshop is owned by:

DHI

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(“DHI”)

1. DEFINITIONS AND INTERPRETATIONS

- 1.1 “**Affiliate**” means a corporation, company or other entity, now or hereafter, directly or indirectly, owned or controlled by, or owning or controlling, or under common control with by one of the Parties, but such corporation, company or other entity shall be deemed to be an Affiliate only so long as such ownership or control exists. For purposes of this definition "control" of a corporation, company or other entity shall mean to have, directly or indirectly, the power to direct or cause the direction of the management and policies of a corporation, company or other entity, whether (i) through the ownership of voting securities entitling to the right to elect or appoint, directly or indirectly, the majority of the board of directors, or a similar managing authority, (ii) by contract or (iii) otherwise.
- 1.2 “**Confidential Information**” means all- or any portion of the Licensed Deliverables (as defined below) which has been, or may hereafter be, made available to Customer by DHI.
- 1.3 “**Customer**” or LICENSEE means the company buying the Licensed Deliverables at the DHI Marine Animal Movement Portal.
- 1.4 “**Intellectual Property Rights**” or “**IPR**” means patent rights, copyrights, trademarks, service marks, and any and all other statutory- and legal rights and

protections available under applicable laws for the protection of intellectual property.

- 1.5 **“Licensed Deliverables”** means the data and information provided by DHI to the Customer through the DHI Marine Animal Movement Portal.
- 1.6 **“MAMP case study area”** means a specific region for which MAMP Licensed Deliverables have been produced. The MAMP case study area is specified as MAMP-BS (Barents Sea), MAMP-NS (North Sea) etc.
- 1.7 **“Parties”** means DHI and the Customer.
- 1.8 **“Purchase Price”** means the amount paid by the Customer in consideration for the Licensed Deliverables.
- 1.9 **“Terms”** means the general licensing terms and conditions for DHI’s Marine Animal Movement Portal.

2. LICENSE

- 2.1 Subject to these Terms, DHI grants to Customer a limited, non-transferable, non-exclusive, license to use the Licensed Deliverables.
- 2.2 There are two general types of licensed deliverables:

a. individual data of a specified nature (i.e., species data, metocean data) and period (minimum 1 year, maximum 14 years)

b. Subscriptions according to table 1:

Freemium Unlimited subscription All MAMP Case study areas	Silver Monthly subscription One MAMP case study area	Gold Annual subscription One MAMP case study area
<ul style="list-style-type: none"> • Access to the portal • All documentation • Dataset visualisation (Metocean, Seabirds, Marine Mammals) 	<ul style="list-style-type: none"> • Access to the portal • All documentation • Dataset visualisation (Metocean, Seabirds, Marine Mammals) • Run unlimited on-screen assessments of underwater noise and oil spill impacts and receive summary reports via email 	<ul style="list-style-type: none"> • Access to the portal • All documentation • Dataset visualisation (Metocean, Seabirds, Marine Mammals) • Run unlimited on-screen assessments of

Freemium Unlimited subscription All MAMP Case study areas	Silver Monthly subscription One MAMP case story area	Gold Annual subscription One MAMP case story area
		underwater noise and oil spill impacts and receive summary reports via email <ul style="list-style-type: none"> • Access all datasets (Metocean, seabirds, marine mammals) for the entire modelling period (2006-2019) for further analysis

2.3 The Licensed Deliverables are made available to the Customer by DHI via email attachment upon receipt of a purchase order. In case of individual data, Licensed Deliverables can be used (on a on a non-transferable, non-sub-licensable basis) for one project only and the Customer must by the request of DHI inform DHI of the project. In case of a Bronze and Gold subscription, Licensed Deliverables can for the duration of the subscription period be used by the Customer for one MAMP case study area and unlimited number of projects within that MAMP case study area. The use described in this Clause 2.3 is hereinafter referred to as the “Allowed Use “.

3. INTELLECTUAL PROPERTY

3.1 The texts, layouts, drawings, databases and other items on the DHI Marine Animal Movement Portal, as well as the website itself, are protected by copyright and by the right of the producer of the database. Some of the names, signs and logos on this website are protected trademarks or trade names. Nothing contained on the website should be construed as granting any license or right to use any trademark, displayed on the website without the written permission from us or such third party that may own the trademarks displayed on the website. Any copy, adaptation, translation, arrangement, modification, or any use whatsoever of the whole or of any part of this website or the Marine Animal Movement Portal of the protected elements, in any form and by any means, is strictly prohibited.

- 3.2 DHI shall retain all rights, title and interest in the copyrights, database rights and other neighbouring rights, patents, trade secrets, trademarks, service marks, design rights, proprietary information rights and other Intellectual Property Rights as may exist anywhere in the world in the Licensed Deliverables.
- 3.3 The Licensed Deliverables may be protected by copyright, database rights and other neighbouring rights. Such protected works may not be copied, reproduced, translated, modified, adapted, reversed-engineered, decompiled, stored in a retrieval system, or retransmitted in whole or in part, in any form or by any means.
- 3.4 This Agreement does not grant Customer any rights in connection with any trademarks or service marks of DHI. All rights not expressly granted are reserved and retained by DHI.
- 3.5 The Customer agrees to create, retain, and upon request provide to DHI and its auditors accurate written records, system tool outputs, and other system information sufficient to provide auditable verification that the Customer's use of Licensed Deliverables is in compliance with the Terms. The Customer is responsible for 1) ensuring that it does not exceed its Allowed Use, and 2) remaining in compliance with the Terms.
- 3.6 Upon reasonable notice, DHI may verify the Customer's compliance with the Terms at all sites and for all environments in which the Customer uses (for any purpose) Licensed Deliverables subject to the Terms. Such verification will be conducted in a manner that minimizes disruption to the Customer's business, and may be conducted on the Customer's premises, during normal business hours. DHI may use an independent auditor to assist with such verification, provided DHI has a written confidentiality agreement in place with such auditor.
- 3.7 The Customer agrees to promptly pay directly to DHI the charges that DHI specifies in an invoice for 1) any such excess use and 2) any additional charges and other liabilities determined as a result of such verification.
- 3.8 If the duration or extent of the excess use cannot be clearly determined by DHI, the Parties agree that the duration or extent - for the purpose of calculating the fee owed to DHI for such excess use - will be fixed at the higher of 5 times of the Purchase Price and the applicable license fee which should have been paid for the excess use which can be determined.

4 PAYMENT

- 4.1 In consideration of the license granted in these Terms, the Customer agrees to pay the Purchase Price. The Purchase Price must be paid in order to complete the purchase of the Licensed Deliverables. DHI will issue an invoice to the customer and payment must be received by DHI within 30 days of receipt of the purchased items. All prices according to the actual price list on <https://www.dhigroup.com/data-portals/marine-animal-movement-portal>

- 4.2 All sums payable under this Agreement are exclusive of 1) any and all indirect and direct taxes, VAT and other duties 2) any and all withholding taxes on international purchases. For the avoidance of doubt DHI shall receive the full invoiced amount exclusive of any and all indirect and direct taxes, VAT and other duties as well as any and all withholding taxes on international purchases from the Customer and otherwise be held harmless of any taxes imposed on DHI due to these Terms.

5 CONFIDENTIALITY

- 5.1 The Customer shall treat as confidential the terms and conditions in these Terms and all- or any portion of the Licensed Deliverables that has been, or may hereafter be, made available to it by DHI.
- 5.2 CUSTOMER shall use the Deliverables only to the extent necessary for the Allowed Use under this Agreement, and shall not disclose them to any third party, unless such third party agrees to confidentiality, nondisclosure and use restrictions no less binding than those set forth in this Article and in Article 5.4, 5.5 and 5.6. Furthermore, such third party shall not have the right to copy the Deliverables and shall upon termination of its need to refer to the Deliverables on behalf of DHI, return the Deliverables to CUSTOMER without retaining any copies. CUSTOMER may disclose all or any portion of the Deliverable to public authorities, if required to do so in the course of obtaining permits.
- 5.3 The obligation of confidentiality set forth in this Article 5 shall remain in effect even after the termination of these Terms for any cause whatsoever.
- 5.4 Nothing contained herein shall in any way restrict or impair the Customer's right to use, disclose or otherwise deal with any information within the Licensed Deliverables which (a) is or becomes generally available to the public through no wrongful act of the Customer or any third party, (b) was in the Customer's possession prior to the time it was acquired from DHI and which was not acquired, directly or indirectly, from DHI, or from others under an obligation of confidentiality, or (c) is independently made available as a matter of right to the Customer by a third party without obligations of confidentiality, provided such third party did not acquire such information directly or indirectly from DHI.
- 5.5 For the purpose of Article 5.4 above, information within the Licensed Deliverables specific to certain conditions or features shall not be deemed generally available to the public or in the possession of the Customer, merely because they- or combinations thereof are embraced by disclosures generally available to the public or in the possession of the Customer. Such information is only generally available to the public if the combination itself and its principle of operation are generally available to the public or in the possession of the Customer prior to disclosure thereof by DHI.

5.6 If the Customer is obliged by law to disclose any Licensed Deliverables, the Customer shall, prior to any such disclosure, immediately give to DHI written notice of that obligation so that DHI may seek a protective order or other appropriate remedy or waive compliance by the Customer with this Article. If any court or administrative body requires disclosure of the Licensed Deliverables, then the Customer required to provide that disclosure may furnish only that portion of the Licensed Deliverables that is legally required, and each of the parties shall exercise its reasonable endeavour to obtain reasonable assurances that confidential treatment is accorded to the Licensed Deliverables.

5.7 The Customer shall not make known or cause to be known to any third party, except as provided in Article 5.2, any correlation, identity, similarity or relationship between information within the Licensed Deliverables, acquired by the Customer hereunder, and information, data or know-how available to the Customer from any other source.

5.8 In the event these Terms are terminated for any reason or upon request by DHI, the Customer shall destroy all copies of the Licensed Deliverables in its possession regardless of form, medium and format.

6 NO WARRANTIES

6.1 There shall be no warranty, expressed or implied, as to the accuracy or utility of any information within the Licensed Deliverables made available to the Customer.

6.2 The Licensed Deliverables have been generated by DHI consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances, and the Licensed Deliverables are made available hereunder to the Customer on an “as is” basis.

6.3 Except as expressly provided herein, all warranties, expressed or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose, are excluded hereunder.

6.4 The Customer shall not, without the express written consent of DHI, make any verbal or written statements or perform any act indicating that DHI endorses or approves, or has endorsed or approved, any portion of the Licensed Deliverables.

6.5 The waiver of a breach of these Terms or the failure of DHI to exercise any right under this Agreement shall in no event constitute a waiver as to any other breach, whether similar or dissimilar in nature, or prevent the exercise of any right under these Terms.

7 INDEMNIFICATION

7.1 The Customer shall indemnify, defend and hold DHI and its affiliates harmless against all liabilities, demands, damages, expenses, or losses arising out of the

Customer's licensing of the Licensed Deliverables, any use by the Customer of the Licensed Deliverables furnished under this Agreement, or out of any use, or other disposition by the Customer of products made- or services performed by use of the Licensed Deliverables, whether authorized or unauthorized.

8 LIMITATION OF LIABILITY

8.1 The Parties agree that the maximum aggregate responsibility of DHI arising out from this Agreement and the Licensed Deliverables shall not exceed in any case the Purchase Price.

8.2 In no event shall DHI be liable to the Customer by way of indemnity or by reason of any breach of contract or statutory duty or by reason of tort (including negligence but excluding wilful misconduct) or otherwise for any indirect or consequential loss, including but not limited to loss of profit, loss of production, loss of use, loss of contracts, loss of business, loss of value, loss of data, or loss of revenue resulting or arising from the use of the Licensed Deliverables by the Customer or their Affiliates even if advised of the possibility of such damages, and the Customer hereby releases and holds harmless DHI therefrom.

8.3 DHI is not liable for any damage or loss inflicted on the Customer or on any third party as a result of the Customer's or third party's misinterpretation of data, or of any other information provided by DHI as part of the Licensed Deliverables.

8.4 In case of damages or loss is inflicted on the Customer or any third party as a result of non-arrival of the Licensed Deliverables, DHI is liable and may offer compensation only if the Customer or any third party can prove that the delay or non-arrival was a result of gross negligence or wilful misconduct by DHI. DHI is exempted from such liability if any of the following circumstances delay or prevent DHI from providing or delivering the Licensed Deliverables:

8.4.1 Breakdown, interruption, delay or similar errors in the transmission of information via the communication systems chosen and used by DHI.

8.4.2 Computer virus in, theft of, damages to, or any unauthorized access to or use of DHI's IT system or the communication systems used by DHI.

8.4.3 Any circumstance (force majeure condition), which DHI is, or could not reasonable be, in direct control of, such as for example war, fire, confiscation, strikes, rebellion, etc.

9 ASSIGNMENT AND USE

9.1 DHI may assign and transfer all its rights and obligations under the Agreement to any third party.

9.2 The Customer may not assign or transfer its rights and obligations under these Terms or in any other way contribute to any third party use of the Licensed Deliverables without DHI's prior, written acceptance.

10 **DURATION**

10.1 These Terms shall continue in full force and effect until ten years after the purchase date or in accordance with the subscription period as outlined in table 1.

11 **TERMINATION**

11.1 DHI may terminate the Agreement with three (3) months written notice.

11.2 Either party may terminate the Agreement with immediate effect if:

a) The other Party breaches any material provision of the Agreement, including any payment to DHI under or due to this Agreement, and such breach is not cured within twenty (10) business days after written notice thereof is received by the breaching Party, or

b) either Party experiences any of the following events: dissolution, insolvency, filing of a voluntary petition in bankruptcy, adjudication as a bankrupt pursuant to an involuntary petition, appointment by a court of a temporary or permanent receiver, trustee or custodian for its business, or an assignment for the benefit of creditors, Such termination will become effective immediately upon the giving of a prior, ten (10) business days, written notice.

11.3 Termination of this Agreement for any reason shall not relieve any Party of any obligation incurred hereunder prior to termination.

11.4 Upon termination of the Agreement, the value of any unused Deliverable will be refunded to CUSTOMER proportionate to the paid Subscription Fee.

11.5 The articles 3 (INTELLECTUAL PROPERTY) and 5 (CONFIDENTIALITY), and other provisions in this Agreement that by their nature should reasonable survive, and any amendments to the provisions of the aforementioned, will survive any termination or expiry of the Agreement.

4. NOTICES

12.1 Notices under the Agreement shall be in writing and will take effect from receipt at the contact addresses stated in the Subscription Agreement. Delivery can be by hand, confirmed email, fax or letter.

5. INVOICING

- 13.1 Unless CUSTOMER provides written notice to DHI of a change of address, all invoices shall be addressed and sent as set out in the General Terms.
- 13.2 The payment due date, net fourteen (14) days, will be calculated from the date of the invoice.

6. ANTI-CORRUPTION, FRAUDULENT PRACTICES AND TRADE CONTROL

- 14.1 The CUSTOMER is familiar- and in strict compliance with the U.S. Foreign Corrupt Practices Act, the Bribery Act of England and Wales, the United Nations Convention against Corruption, DHI's Code of Conduct for Partners (<http://www.dhigroup.com/about-us/corporate-social-responsibility>) and any similar local legislations, statutes, regulations relating to anti-bribery and anti-corruption (jointly the "AC-Rules"), its prohibitions and purposes, and will not undertake any actions that may violate the AC-Rules.
- 14.2 If the CUSTOMER fails to comply with any of the provisions of the AC-Rules (irrespective of the size, nature or materiality of such violation), such failure shall be deemed to be a material breach of this Agreement and any other agreement made with DHI.
- 14.3 The CUSTOMER shall be in strict compliance with export controls, sanctions, import restrictions or other trade restrictions arising under any applicable law of any jurisdictions with respect to the Agreement and will not undertake any actions that may violate such restrictions.
- 14.4 The CUSTOMER acknowledges that a violation of this Clause 14 (Anti-corruption Fraudulent Practices and Trade Control) shall be deemed a material breach of the Agreement, and that the Client shall defend, indemnify, and hold DHI, its officers, directors, employees and shareholders harmless from any costs, expenses, fines, penalties or loss arising from its failure to comply with such applicable governmental laws and regulations.
- 14.5 The CUSTOMER shall obtain and maintain at its own risk and expense from the appropriate authorities all permits and licenses necessary for the use of the DELIVERABLES.
- 14.6 Upon any compliance failure with this Clause 14, DHI shall have the right to terminate this Agreement with immediate effect upon written notice to the CUSTOMER without penalty or liability of any nature whatsoever. For the avoidance of doubt: DHI applies- and the CUSTOMER accepts the zero tolerance policy in terms of breach of this Clause 14.

7. LANGUAGE AND LAW

- 15.1 The language of the Agreement shall be English.
- 15.2 This Agreement shall be construed- and the legal relations between the Parties determined in accordance with the laws of Denmark, excluding its conflicts of law rules.

8. ARBITRATION

- 16.1 Any dispute arising out of this Agreement, including any dispute concerning the existence or validity hereof, will be decided by mediation by the Danish Institute of Arbitration (Danish Arbitration). The Danish Institute of Arbitration will apply its own rules of procedure being in force when the application for mediation is submitted.
- 16.2 If a party objects to mediation, or if mediation does not result in a settlement, the dispute will be decided with final effect (i) by simplified arbitration by the Danish Institute of Arbitration (claims of less than DKK 800,000) or (ii) by arbitration by the Danish Institute of Arbitration (claims of DKK 800,000 or more). The Danish Institute of Arbitration will apply its own rules of procedure being in force when proceedings are commenced. The arbitration tribunal will sit in Copenhagen, and the language of proceedings will be English.
- 16.3 The Parties are not entitled to disclose confidential information relating to the mediation or the arbitration proceedings to any third party, including information on any decision or arbitration award, unless the other party has consented in writing to each individual disclosure. However, either party is entitled to disclose information relating to the mediation or the arbitration proceedings to a third party if such disclosure is made to protect its interests in relation to the other party or to comply with current legislation or public authority decisions, or if such disclosure is required under any listing agreements.
- 16.4 This arbitration clause shall not restrict or prevent the Parties from seeking any interlocutory remedies, including without limitation injunctive relief, available under the Danish Administration of Justice Act or similar remedies available under foreign legislation.

9. ENTIRE AGREEMENT

- 17.1 The making, execution and delivery of the Agreement of DHI and CUSTOMER have been induced by no representation, statement, warranties, or other agreements other than those herein expressed. The Agreement embodies the entire understanding of the Parties hereto and supersedes any previous agreements or understandings, written or oral, in effect between the Parties relating to the subject matter hereof. The Agreement may only be amended or modified by an instrument of equal formality signed by duly authorized representatives of the respective Parties.

- 17.2 If for any reason, one or more provisions of the Agreement or part thereof is held invalid, the other provisions of the Agreement, or parts thereof, shall remain in full force and effect.