

# con terra Data Services Terms of Use

Your use of con terra Data Services (the "Online Services") provided by con terra GmbH ("con terra") is subject to: (i) these Terms of Use; (ii) our Privacy Statements; (iii) any other terms which accompany a specific offering of the Online Services and (iv) any restrictions on use described in the order form when you request a free trial or purchase the Online Services (collectively, the "Terms").

All con terra Data Services provide specific data translation services based on con terra Technologies in combination with FME Technology as described on the initial introduction website of the service.

Online Services include any online platform, software, documentation or service available at <https://dataservices.conterra.de>, or any successor URLs controlled by con terra or its affiliates, as well as any related technical support. By clicking "Accept" or otherwise using the Online Services, you signify your agreement with the Terms.

If you do not agree with any of the Terms, do not use the Online Services. If you are using the Online Services on behalf of a business, then you assure that you are authorized to accept these Terms on behalf of such business.

## 1. Using the Online Services

You may access and use the Online Services only in compliance with the Terms. You may access the Online Services using the interface(s) provided and in compliance with applicable laws, including data privacy laws and regulations. con terra reserves the right to immediately suspend or stop providing Online Services.

You agree not to knowingly: (a) use any device, software or technique to interfere with or attempt to interfere with the proper working of the Online Services or take any action which could damage, disable, overburden, or impair the Online Services infrastructure or con terra network system; (b) post or transmit to the Online Services any content in violation of another party's intellectual property rights or any content that is unlawful, fraudulent, harassing, libelous, or obscene; (c) post or transmit to the Online Services any information that contains a virus, bug, or other harmful item; (d) copy, distribute, prepare derivative works, reverse engineer, or use the Online Services other than as permitted herein; (e) attempt to gain unauthorized access to any software, other accounts, computer systems, or networks connected to any Online Services infrastructure through hacking, password mining, or any other means; (f) take any action which may interfere with any other party's use and enjoyment of the Online Services; or (g) obtain or attempt to obtain any materials, services, or information through any means not intentionally made available through the Online Services; (h) resell, remarket, or rebrand the Online Services as a stand-alone application or service.

con terra will use reasonable commercial efforts to make the Online Services available except for: (i) planned downtime for which con terra will provide you with at least eight hours advance notice by e-mail; or (ii) unanticipated or unscheduled downtime of all or part of the Online Services, including system failure or other events beyond the reasonable control of con terra. You acknowledge that certain components of the Online Services are provided by third party service providers, including but not limited to Safe Software Inc. and Amazon.com Inc., and are beyond the reasonable control of con terra.

For technical inquiries using the Online Services please contact [support@conterra.de](mailto:support@conterra.de). Technical support is not included in the Online Services and can be offered by con terra as an additional service on con terra own discretion.

## **2. Your Account**

To access the Online Services, you will be required to register for an account. You agree to provide accurate and complete registration information. It is your responsibility to inform con terra of any changes to your registration information or to change such information by signing into your account. You are responsible for all activities that occur under your account. con terra is not responsible for unauthorized access to your account. You agree to keep your password confidential and to send notice to con terra immediately if your password is compromised.

## **3. Your Content**

The Online Services may allow you to transmit, use, modify and publish your workspaces, data, and other content (collectively, "Your Content"). You retain ownership of any intellectual property rights that you hold in Your Content. You consent to con terra's use of Your Content for the limited purpose of providing and operating the Online Services. You are solely responsible for the protection of data privacy of Your Content. con terra is not restricted from independently developing workspaces and other components that have similar functionality to Your Content.

con terra will ensure there are reasonable and appropriate measures to help you secure Your Content. You acknowledge that Your Content may be stored on a con terra or on a third-party server located anywhere in the world unless you have a separate written agreement with con terra stating a specific server region. You acknowledge that the Internet is a network of computers worldwide, and that any information submitted to the Online Services necessarily is routed via third party computers to con terra, and that con terra is not responsible for lapses in online security and does not assume liability for improper use of Your Content by a third party.

## 4. Trademarks & Copyright

"FME" is the registered trademark of Safe Software Inc. and related FME logos are the trademarks and/or service marks of Safe Software Inc. All other brand names, product names, or trademarks belong to their respective holders.

All intellectual property rights in the specific Online Services are owned by con terra (with the exception of the rights mentioned above in paragraph 4), or its licensors, and do not in any way transfer to you by virtue of your access to the Online Services. These Terms do not grant you any rights to use the trademarks, logos, or other brand features of con terra or its licensors other than as expressly stated herein. You agree not to obscure, remove, alter, or tamper with any legal notices displayed in conjunction with the Online Services.

## 5. Software for the Online Services

Software that is made available for use through the Online Services is the copyrighted work of con terra or third-party licensees. con terra gives you a personal, worldwide, royalty-free, non-assignable, and non-exclusive license to use such software only as part of the Online Services. You may not copy, modify, distribute, sell, or lease any part of the included software separately from the Online Services, nor may you reverse engineer or attempt to extract the source code of that software. **WITHOUT LIMITING THE FOREGOING, COPYING OR REPRODUCTION OF INCLUDED SOFTWARE TO ANY OTHER SERVER OR LOCATION FOR FURTHER REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PROHIBITED.**

Some of the software included in the Online Services may be offered under an open source license. Such open source license terms work in conjunction with these Terms. However, if there is a conflict between these Terms and the open source license terms, the open source license terms will prevail.

## 6. Third Party Content

If you use the Online Services in conjunction with content or applications provided by third parties, then you agree to comply with any terms and conditions provided by such third parties. If third party terms and conditions are applicable for a specific Online Service, it will be shown during the registration process and has to be accepted by clicking a checkbox in addition to these terms of use. You may not use the Online Services in conjunction with any third-party content licensed in any manner that could cause, or be interpreted or asserted to cause, the Online Services to become subject to any copyleft provisions. Your use of any third-party content is at your sole risk.

The Online Services may contain links to other web sites. Such linked sites are not under con terra's control, and con terra is not responsible for and does not endorse the content of linked sites. You will need to use your independent judgment regarding your interaction with such linked sites.

## 7. Fees & Payment

The Online Services are available on annual subscription basis as stated on the introduction webpage of the specific Online Service. You will be billed by invoice upfront for the subscription amount and any additional accrued fees will be billed to you separately. For additional payment options for subscriptions, please contact [fme@conterra.de](mailto:fme@conterra.de).

## 8. Modification & Termination

con terra reserves the right to modify the Online Services at any time and in its sole discretion. Functionality and offerings may be added, removed or eliminated. Usage limits may be added or revised at any time with notice to you. In cases of limitations of an Online Service due to the changes, you receive a pro-rata refund of the pre-paid fees.

Either party may terminate your use of the Online Services on thirty (30) days by the end of the month in text form to the other party. con terra may terminate your use of the Online Services immediately and without notice if con terra believes that you are in violation of these Terms including, but not limited to, non-payment of fees. You remain liable for any fees accrued up to the date of termination and for any obligations (such as indemnity obligations) which by their nature are intended to survive termination. con terra will not refund any pre-paid or subscription fees unless termination is due to con terra's breach of these Terms.

The Terms may be modified at any time in con terra's sole discretion. All modified Terms will be posted at <https://www.conterra.de/en/produkte/weitere-informationen/lizenz-und-nutzungsbedingungen/>. -

## 9. Warranty, Disclaimer & Limitations on Liability

CON TERRA WARRANTS THAT THE ONLINE SERVICES AND ALL RELATED MATERIALS ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND WITH ALL DEFECTS AND ERRORS. TO THE EXTENT PERMITTED BY LAW, CON TERRA MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AS TO NONINFRINGEMENT, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, THAT THE ONLINE SERVICES WILL BE ERROR-FREE OR

**UNINTERRUPTED, THAT ANY DEFECTS WILL BE CORRECTED, OR THAT YOUR CONTENT WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED.**

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING AND TO THE EXTENT PERMITTED BY LAW, CON TERRA ASSUMES NO LIABILITY FOR ANY DATA TRANSLATED BY THE ONLINE SERVICES, OR FOR LOSSES ARISING DUE TO THE ACTS OR OMISSIONS OF THIRD PARTIES IN CONNECTION WITH THE ONLINE SERVICES.

**NEITHER PARTY SHALL BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, OR LOSS OF PROFIT, REVENUE, DATA OR BUSINESS OPPORTUNITY ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE ONLINE SERVICES, WHETHER OR NOT SUCH LOSS OR DAMAGE IS REASONABLY FORESEEABLE. CON TERRA'S TOTAL LIABILITY FOR ANY CLAIM RELATED TO THE ONLINE SERVICES OR THESE TERMS IS LIMITED TO THE FEES PAID BY YOU FOR THE ONLINE SERVICES DURING THE PREVIOUS 12 MONTHS. THIS LIMITATION OF RELIEF IS A PART OF THE BARGAIN BETWEEN THE PARTIES.**

## **10. Indemnity**

You agree to indemnify and hold con terra and its affiliates, officers, agents, and employees harmless from any demands, loss, liability, claims, proceedings, or expenses (including attorney's fees) made against con terra arising from your use of the Online Services, or your violation of these Terms.

## **11. Right to Regulate**

You acknowledge that con terra has the right, but not the obligation, to monitor the Online Services and to disclose any information necessary to operate the Online Services and to comply with legal obligations or governmental requests.

## **12. Governing Law**

The Terms shall be governed by, construed, interpreted, and enforced in accordance with the laws of the Federal Republic of Germany. The legal venue for all disputes arising in connection with these Terms of Use shall be Münster in Westphalia, Germany.

## **13. Severability & Waivers**

If any provision of these Terms is found by a court of competent jurisdiction to be unlawful, void, or for any reason unenforceable, the remainder of the Terms shall continue in full force and effect. No failure or delay by con terra in enforcing any provision of these Terms shall be a waiver of con terra's rights to enforce these Terms.

**Effective as of: August 1<sup>st</sup>, 2019**

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