



General terms and conditions

For sale of OceanIO® Services – Credit Model

These general terms and conditions shall apply to Customer purchase of OceanIO Services (“General Conditions”).

1 SCOPE

1.1 Service delivery to Customers from GateHouse Maritime A/S, VAT. No. DK37439568 or GateHouse USA Corp., Business Entity Identification No. 32-0518282 (both companies herein referred to as “GateHouse”) is subject to these General Terms and Conditions (“General Conditions”).

2 DEFINITIONS

2.1 “Agreement” means a contract between GateHouse and Customer consisting of (the following order of precedence shall apply):

- a. The Order Form
- b. These General Conditions
- c. Other documents specified in the Order Form.

2.2 “Credit Package” means a set pre-determined credit subscription amount (minimum amount of credits purchased) for a Service Term, paid annually by the Customer.

2.3 “Data” means the data or information, in whatever form, including images, still and moving, the provision of which comprises the Services or are part of the Services provided to Customer as specified in the Order Form.

2.4 “OceanIO Platform” means access to the GateHouse Services provided through REST API.

2.5 “Services” means including, without limitation, all Services provided as Data-as-a-Service and applications (software, interfaces, enhancements including derivatives) by GateHouse to the Customer through the OceanIO Platform.

2.6 “Service Term” means a subscription term of 12 months from the Billing Start Date in the Order Form. A Service Term will automatically be renewed, unless terminated by the Customer according to Art. 6.

3 SERVICE USE LICENSE

3.1 GateHouse grants to Customer a non-exclusive, non-transferable, non-sublicensable, revocable license (“License”) during the Service Term to access the Services through the OceanIO Platform.

3.2 Any distribution of the Services directly to end-customers is not authorized by this License. Customer may only distribute the Services to end-customers if the Services are combined as an ancillary part together with other services of the Customer or further processed by the Customer.

4 CREDITS

4.1 Each of the provided Services has a cost of one or more credits, as provided in the Order Form.

4.2 The Credit Package for a Service Term will be determined based on a good faith estimate from the credit model between the Customer and GateHouse.

4.3 Unused credits are rolled over to the next Service Term.

4.4 Credits expire 2 (two) years from purchase. Credits are used based on a “First-In-First-Out” principle.

4.5 There is a built-in discount step in the credit model's tier levels: The greater the consumption volume of credits, the lower the price per credit.

4.6 Tier Level Upgrade or Downgrade in the credit model is usage dependent:

- i. if Customer spend of credits exceeds volume for next credit tier level in the credit model, the Customer is automatically upgraded to that new subscription volume by the end of the month. In this case the difference between tiers gets invoiced (based on credit price for the new tier level as applied to all credits for that Service Term).
- ii. the Customer is automatically downgraded to a lower tier level by the end of a Service Term in case the Customer's credit consumption is lower than original commitment.
- iii. the Customer can be downgraded manually in case of extraordinary activity during the Service Term (e.g., when selling off an activity)

4.7 GateHouse will continue to deliver Services without interruption, even if the Customer runs out of credits within a Service Term. Any excessive use of credits in relation to the subscribed Credit Package within a Service Term will be calculated and invoiced at the end of the billing period of a Service Term.

5 PRICING AND PAYMENT

5.1 Prices are exclusive of all excises, sales, use and other taxes imposed by any federal, provincial, municipal or other government authority, all of which taxes shall be paid by the Customer.

5.2 The annual fee for purchased credits is earned and due upon the Billing Start Date in the Order Form.

5.3 Pricing is according to Order Form and payment is yearly in advance. Payment is to be made by net 30 (thirty) calendar days from the date of receipt of undisputed invoice. Payment shall not be deemed executed before GateHouse's account has been fully and irrevocably credited.

5.4 At the beginning of each annual Service Term, Customer will be invoiced for the agreed Credit Package.

5.5 If the Customer's consumption of credits exceeds the number of credits already purchased in advance and at the same time passes the next tier level in the credit model, this will lead to invoicing of the customer's actual consumption on a monthly basis.

5.6 Delay in payment will carry an addition of interest of 2.0 % for each month from the due date.

5.7 Pricing may annually (in January) be regulated according to the Danish net price index, please see [Net price index - Statistics Denmark \(dst.dk\)](#).

5.8 In the event of other price adjustments, the Customer will be notified of this with a 3 (three) months' prior written notice.

6 TERMINATION

- 6.1 The Customer may terminate the subscription of the Services at any time with a 30 (thirty) days' prior written notice, and GateHouse may terminate the Services at any time with a 3 (three) months' prior written notice before the end of a Service Term.
- 6.2 If Customer terminates the Agreement before the end of a Service Term, all outstanding debts between the parties become due for payment. The subscription will expire at the end of such Service Term, after which GateHouse will terminate access to the OceanIO Platform. If the Agreement is terminated, GateHouse will stop access to the Services if Customer runs out of credits.
- 6.3 Unused credits are lost if not used before end of a Service Term in case of Customer termination.
- 6.4 Either party may terminate the Agreement if: (a) the other party commits a breach of any material term or condition of the Agreement and does not cure such breach within 14 (fourteen) calendar days of written notice thereof; or (b) the other party's assets are transferred to an assignee for the benefit of creditors, to a receiver or to a trustee in bankruptcy, a proceeding is commenced by or against the other party for relief under bankruptcy or similar laws, or the other party is adjudged bankrupt.
- 6.5 GateHouse may suspend or terminate its performance under the Agreement with no less than 30 (thirty) calendar days written notice (and if the remedy is not cured within the 30 days' notice period) if the following occurs: (a) Customer does not pay any invoice within the agreed payment terms; (b) it has reasonable evidence of Customer's fraudulent or illegal use of Services; (c) if GateHouse is not permitted to provide the Services due to applicable laws, regulations, or government policy restrictions; (d) Customer is in breach of the use of the Services; (e) Customer is an individual or entity or located in a country that GateHouse is not permitted to sell Services to; (f) if Customer has failed to comply with all applicable laws and regulations, including but not limited to, all laws relating to import and export of the Services; (g) pursuant to Section 10.1 below, in case of a Force Majeure event; and/or pursuant to Section 6.8 below. In addition, GateHouse may terminate the Agreement if GateHouse no longer has the necessary right from any third party to license or distribute the Services.
- 6.6 Any termination under this Section 6 does not relieve either party of any liability incurred prior to such termination.
- 6.7 Upon termination of the Agreement in terms of Services provided from GateHouse all rights granted herein will terminate immediately.
- 6.8 Notwithstanding anything to the contrary in the Agreement and/or anything contained in Section 6, GateHouse reserves the right to modify the Service portfolio at its discretion at any time. GateHouse shall provide 30 (thirty) days prior written notice to Customer of any such events affecting the Services.

7 INTELLECTUAL PROPERTY RIGHTS

- 7.1 Customer acknowledges GateHouse's full ownership, control, title, interest in and to any and all of the intellectual property comprising the Services and the OceanIO Platform. All rights not expressly granted are retained by GateHouse or GateHouse's licensors (as the case may be).
- 7.2 Except as provided under the Agreement, Customer will not, and will not permit any third parties to: i) copy or reproduce in any manner the Services or any portion thereof; ii) sublicense, lease, rent, distribute, or otherwise directly transfer the Services to third parties; or iii) otherwise misuse the OceanIO Platform to provide services to third parties.
- 7.3 Clauses 7.1 through 7.2 shall survive any termination of the Agreement and irrespective of the basis of such termination.

8 LIMITATION OF LIABILITY

- 8.1 GateHouse's liability follows the general rules of Danish law.
- 8.2 Either party's total cumulative liability in connection with the Agreement, whether in contract or tort or otherwise, shall be limited to Fees paid by Customer in the previous 12 months from a claim pursuant to the Agreement, however, see Section 8.4.
- 8.3 Neither party is liable to the other party or to any third party for any indirect, special, incidental, or consequential damages of any character including, without limitation, damages for loss of goodwill, work stoppage, loss of data, loss of use, loss of profits, business opportunities, revenue turnover, or for any and all other damages or losses.
- 8.4 Neither party excludes or limits liability to the other party for: 1) the payment of Subscription Fee together with any interest due to late payments; 2) any breach of or liability arising due to Section 3 (Service Use License) or Section 10.2 (Non-Disclosure); 3) deliberate default or willful misconduct; 4) fraud or fraudulent misrepresentation; death or personal injury caused by negligence; 5) infringement of intellectual property rights; or 6) any matter in respect of which it would be unlawful for the parties to exclude liability.
- 8.5 GateHouse does not assume responsibility for the accuracy of the AIS Messaging Data or the absence or interruptions of the broadcast by individual vessels.

9 DISCLAIMER

- 9.1 To the maximum extent permitted by applicable laws, GateHouse disclaims all warranties, either express or implied, including but not limited to: (a) implied warranties and conditions of merchantability, fitness for a particular purpose, and noninfringement with respect to the Services; and (b) warranties as to the availability or performance of the Internet and related networks used for the provision of the Services. GateHouse makes no warranty that the Services will be error-free or free from interruptions or other failures.
- 9.2 GateHouse assumes no liability for the Customer's use of the Services.

9.3 Critical Applications. The Services provided through the OceanIO Platform are not designed or intended to be used in connection with any system requiring fail-safe performance, such as in life-support or safety systems, safety applications etc. (individually or collectively, "Critical Applications").

9.4 Further, the Services provided through the OceanIO Platform are not designed or intended for use in connection with any applications that affect navigation or control of a vessel.

10 GENERAL TERMS

10.1 Force Majeure

10.1.1 Neither party shall be liable for non-performance or delays in performance when caused by acts or events which are beyond the reasonable control of a party, including but not limited to the following: acts of government (e.g. failure, suspension, modification and/or cancellation of/to grant of permits or licenses, provided such failure is not the result of any negligence of a party), laws or regulations, strikes or other labour disturbances, natural catastrophes, acts of terrorism, cyber-attacks, widespread outbreaks or diseases, acts or omissions of third party telecommunications suppliers or data collectors/suppliers, war, power failures, Internet failures and related network failures ("Force Majeure").

10.2 Non-Disclosure

10.2.1 By virtue of the Agreement, either party may gain access to information which is confidential to the other party (hereinafter referred to as "Confidential Information"). Confidential Information is understood as information clearly identified as confidential by a party, whether orally or in writing, but also as information which a reasonable businessperson would understand to be inherently proprietary or business sensitive even though not identified as such.

10.2.2 The parties agree to observe confidentiality with respect to each other's Confidential Information during the term of the Agreement. Following termination of the Agreement and irrespective of the basis for such termination, the parties' obligations will survive and continue in respect of any Confidential Information that is a trade secret under applicable law.

10.3 Sales and Marketing Activities

10.3.1 GateHouse will regularly invite and conduct webinars and send out newsletters regarding GateHouse Services.

10.3.2 Customer agrees to allow GateHouse to promote Customer as a customer reference and use Customer logo on GateHouse's website and in sales presentations.

10.4 Assignment

10.4.1 Either party may assign the Agreement to an affiliate or to an acquirer of all or substantially all of the assets of a party.

10.4.2 Except as stated in clause 10.4.1, neither party may transfer the Agreement to another party without the written consent of the other party (which will not be unreasonably conditioned, withheld or delayed).

10.4.3 Any requested assignment by Customer (i) to a direct competitor of GateHouse; (ii) that would interfere with performance of obligations under the Agreement; or (iii) that changes the scope of the usage and the intent contemplated by the parties under the Agreement, is deemed unreasonable. Any assignment or transfer in violation of the above is void.

11 TRIAL/PROOF-OF-VALUE

11.1 GateHouse may provide Customer access to the Services with no liability whatsoever for a limited period for test and integration. This test service will be designated as "Trial" or "Proof-of-Value" and have limited functionality and restricted access and provided "AS IS" Services. Test services are not Services under this Agreement, and they are only licensed for Customer's internal non-commercial use.

12 DATA PROTECTION

12.1 Use of AIS Messaging Data

12.1.1 AIS Messaging Data is not personal data. GateHouse points out that the use of AIS Messaging Data in combination with Customer's own or other data may constitute processing of personal data as defined in the EU General Data Protection Regulation ("GDPR"). Consequently, the Customer must, among other things, observe the regulations according to GDPR and the notification duty as to the data subject herein.

12.1.2 GateHouse disclaims any and all liability for any combination of AIS Messaging Data from GateHouse by the Customer with own or other data whereby Data received as a part of GateHouse Services becomes name linked. GateHouse furthermore waives any liability for the Customer's violation, if any, of the legislation on personal data, notwithstanding any such violation of local statutes on the part of the Customer may be an unintentional consequence of the Customer's customary use of the Services.

12.2 Business Data Submitted

12.2.1 The OceanIO Platform will log business data generated via the use of the Services. In the event of a system breakdown, GateHouse cannot be held liable for the loss of such data, nor can GateHouse be made responsible for retrieving or re-storing such data. GateHouse cannot be held liable for any financial impact on users of such data.

12.2.2 In the course of providing and developing the Services, GateHouse commits to neither disclose nor share any personal business information acquired from any user of the OceanIO Platform with any third party. Such data does not include data, which is or becomes publicly known through no act or default of GateHouse or is obtained by GateHouse from a third party in circumstances where GateHouse has no reason to believe that there has been a breach of an obligation of confidentiality.

12.2.3 Any personal data shall be processed in accordance with GDPR and/or the implications of same enforced by the Danish legislative authorities.

12.2.4 GateHouse collects the following personal data in connection with access to the OceanIO Platform:

- Name, Job title, Phone number, E-mail address, Customer name and contact information
- Username and password and Customer IP-address

12.2.5 GateHouse acts as data controller in relation to any personal data GateHouse might collect and process in relation to user's provision of business information in order to subscribe to the Services in the OceanIO Platform. Following receipt of such data, GateHouse will process the data using automatic data processing, in order to enable GateHouse to administer and otherwise perform our obligations within the scope of the OceanIO Platform and to ensure that unauthorized persons do not gain access to the OceanIO Platform.

12.2.6 The user has the right to access the data concerning the user, correct such data, and object to their use. The user may request that any information concerning the user, which is inaccurate, incomplete, ambiguous, or out of date or of which the collection, use, communication, or retention is prohibited, is corrected, completed, clarified, updated, or deleted. Such requests can be directed to: dpo.contact@gatehouse.com.

12.2.7 GateHouse may be bound by law to give business information to relevant authorities if so requested. By entering into this Agreement, GateHouse is authorized to comply with such requests, provided GateHouse inform users without delay of the nature of the request and of the information submitted.

13 GOVERNING LAW AND DISPUTE SETTLEMENT

13.1 These General Conditions and the Agreement is governed by the substantive laws of the Kingdom of Denmark, without regard to conflict of law principles.

13.2 Any dispute arising out of or in connection with this Agreement, shall be brought before the Danish Institute of Arbitration in Copenhagen, Denmark.

13.3 The language to be used in any proceedings shall be English.

14 ENTIRE AGREEMENT

14.1 The Agreement sets forth the entire agreement between the parties and supersedes any and all prior proposals, agreements, or communications, written or oral, of the parties with respect to the subject matter hereof.

14.2 Nothing contained in any Customer-issued purchase order, purchase order acknowledgement, terms and conditions or invoice will in any way modify or add any additional terms or conditions to the Agreement.