

Data Use Agreement HOWAS 21

between

**Helmholtz Centre Potsdam - GFZ German Research Centre for Geosciences
Telegrafenberg, 14473 Potsdam, Germany**

- Hereinafter referred to as GFZ -

and

the Contracting party

((Please indicate the organisation/legal entity including its authorised representatives, the responsible person (contact person) and the complete address including telephone number and e-mail))

- Hereinafter referred to as Contracting Party -

Preamble

The GFZ has developed the database HOWAS 21 for object-specified flood loss data within the research project *MEDIS - Methods for the recording of direct and indirect damages*, which was funded by the German Ministry of Education and Research. The concept of use of HOWAS 21 provides for three different user groups, which have access to the database in different degrees: 1) "User group I" feeds own damage data into HOWAS 21 and gets full access to the entire data stock; 2) "User group II" doesn't provide own flood loss data and can get limited rights of use to the HOWAS 21-database for scientific or non-commercial projects; projects for public flood risk management (e.g. development of flood protection concepts) are, unless scientific, considered non-commercial; 3) User group "World", the interested public can get information about the contained data stock via the website. The HOWAS 21 database is of considerable benefit to the entire expert community, through the continuous input of new damage data. In the past years several partners have already fed in data.

The Contracting Party has no flood loss data that could be fed into the HOWAS 21 database and therefore would like to access the database as a user of "User Group II" and use the data for a specific, scientific, non-commercial project. With the present Agreement, the GFZ therefore grants the Contracting Party the right to use the flood loss data of HOWAS 21 exclusively within the scope of this project under the following conditions.

§ 1

Subject of the Contract

- (1) GFZ grants the Contracting Party the rights of use as specified under § 2 for the flood loss data contained in the database HOWAS 21 for the specific project named in § 2.
- (2) The Contracting Party receives the required login credentials for the database HOWAS 21 from GFZ, for the use of the database and the data contained therein after signing this contract. With the end of the project these login data are to be deleted.
- (3) The Contracting Party is obliged to make the results of the project available to the GFZ and to grant the GFZ the corresponding rights of use according to § 2 (7).

§ 2

Rights of Use

- (1) GFZ grants to the Contracting Party a non-exclusive, free of charge, non-transferable right of use concerning the flood loss data contained in HOWAS 21. The right of use is granted exclusively for the implementation and only within the scope of the project "xxx", (project duration from xxx to yyyy) and ends with the end of the project at yyyy. The Contracting Partner confirms that this project serves exclusively scientific or non-commercial purposes; he must immediately inform the GFZ of any change in the orientation of the project.
- (2) After the end of the xxx-project, the Contracting Party has to delete the used HOWAS 21 data immediately and to confirm this deletion to the GFZ upon request.
- (3) The use of the data for other projects and activities outside the "xxx" project is excluded.
- (4) It is not allowed to publish data sets (in whole or in part) or transmit data sets (in whole or in part) to a third party. Third parties in this sense are also affiliated companies of the Contracting Party according to §§ 15 German Stock Corporation Act (Aktiengesetz).
- (5) Results derived from using HOWAS 21 data may only be published with reference to the following source:
Source: HOWAS 21 Flood loss data base, German Research Centre for Geosciences GFZ, DOI 10.1594/GFZ.SDBB.HOWAS 21, *Date of the data download*.
Choose the following citation for publications in German:
Source: HOWAS 21 Hochwasserschadendatenbank, Deutsches GeoForschungsZentrum GFZ, DOI 10.1594/GFZ.SDBB.HOWAS 21, *Date of the download*
- (6) Providing detailed information about the data contained in HOWAS 21 to third parties require the prior written permission of GFZ.
- (7) The Contracting Party will make the project results from the project named under § 2 (1), e.g. publications, available to the GFZ free of charge and make them available for publication on the HOWAS 21 internet platform, as long as there are no restrictions on this by the project. The Contracting Party grants the GFZ a non-exclusive, free of charge, transferable, sublicensable, irrevocable right of use and transfer within the framework of HOWAS 21.

§ 3

Warranty / Liability

- (1) The GFZ does not warrant or guarantee and does not assume liability for the accuracy, quality and completeness of the data set or that the data sets contained in HOWAS 21 are free of property rights of third parties, which would oppose a transfer to and use by the Contracting Party. However, as soon as the GFZ should become aware of such property rights, the GFZ will inform the Contracting Party immediately; the Contracting Party must then delete the relevant data immediately.
- (2) The GFZ does furthermore not warrant or guarantee and does not assume liability for the permanent and uninterrupted availability and functionality of the HOWAS 21 database. The GFZ reserves the right to make changes to the HOWAS 21 database and will inform the Contracting Party accordingly. The GFZ also reserves the right to discontinue the database without giving reasons. The GFZ will inform about this in time.
- (3) If the Contracting Party provides the GFZ with project results according to § 2 (7), the Contracting Party does not warrant or guarantee and is not liable for the accuracy, quality and completeness of the data.
- (4) Liability claims of the GFZ and the Contracting Party for compensation of damages are excluded, unless they are based on intent or gross negligence. The liability for consequential damages and financial losses is excluded, except in the case of intent and legally binding liability.

§ 4

Confidentiality

- (1) The parties undertake to treat any confidential information acquired in connection with this Agreement as well as any confidential documents made accessible as confidential for an unlimited period of time and to keep them secret vis-à-vis third parties, insofar and for as long as they have not
 - become part of the state of the art in science and technology accessible to the public,
 - have been made available to one party by third parties without any obligation of confidentiality,
 - were already known to the other party prior to notification by one party or
 - have otherwise become generally known without fault of the receiving party or have been developed independently by the receiving party.
- (2) The information or documents shall be marked as confidential. Even without such marking, the data records in HOWAS 21 as well as the login data to the HOWAS 21 database provided to the Contracting Party are considered confidential.
- (3) The login data must be kept secret and in particular may not be passed on to third parties. The data records transferred for the project as well as the login data must be deleted by the Contracting Party after the end of the project. A reverse engineering of database information is excluded.

§ 5

Applicable Law, Mediation, Jurisdiction

- (1) This Agreement shall be construed and interpreted in accordance with the laws of Germany under exclusion of the UN Sales Law.
- (2) The parties shall attempt to settle any differences on the interpretation and execution of this Agreement amicably. If this does not succeed, mediation shall be attempted before recourse to legal action. If the mediation fails, for whatever reason, the parties reserve the right to take legal action before the courts. Place of jurisdiction for legal disputes arising from this Agreement shall be Potsdam, Germany.

§ 6

Final Provisions

- (1) Amendments and supplements to this Agreement must be in writing.
- (2) If a provision of the present agreement is or becomes ineffective, this shall not affect the effectivity of the remaining provisions of the present Agreement. Instead, the provisions shall be replaced retroactively by a regulation which is legally admissible and the content of which comes closest to the original provision. The same shall apply for all and any loopholes in the Agreement.
- (3) This Agreement shall enter into force upon signature and ends with the end of the project. If the orientation of the project named in § 2 (1) becomes commercially, both parties have an extraordinary termination right before the end. The provisions of § 2 (7), § 3, § 4 and § 5 shall continue to apply after termination of the Agreement.

Potsdam, Date

Place, Date

GeoForschungsZentrum GFZ

Contracting Party