

GENERAL TERMS AND CONDITIONS (NETHERLANDS) OF ARGYLL ENVIRONMENTAL LIMITED

Definitions:

“Argyll” means **Argyll Environmental Limited whose principal place of business is Tower Point 44, North Road, Brighton East Sussex BN1 1YR, England**

“Designated Users” means to the persons to whom a Member has given power of attorney to place orders in the Member’s name, using this Member’s Account.

“Account” means the credit account opened with Argyll by a Member.

“General Terms and Conditions” means these General Terms and Conditions.

‘Content’ means any data, computer and information services and software, as well as any other content and documentation and/or auxiliary material and updates included in the Websites, Reports and/or Services or otherwise by Argyll and/or provided by or through these Websites and shall include both Content developed by Argyll and Third Party Content.

“Third Party Content” means the services, software, information and other content or functionality provided by third parties and either linked to or included in the Services.

“Services” means the provision of a service by Argyll under these General Terms and Conditions, including the provision of access to the Reports and other Content; the service may be – entirely at Argyll’s discretion – limited in terms of time, intended exclusively for evaluation purposes, possibly offer limited functionality, possibly offer limited access to the Content or be free of charge.

“Authorised Reseller” means an agent or reseller of Argyll, whom Argyll has duly appointed to resell its Reports and Services.

“Intellectual Property Rights” means all forms of intellectual property or protective rights recognised by the law.

“Client” means, insofar as applicable, the person or organisation which you provide with professional services and/or which provides you with professional services.

“Argyll Fees” means any costs charged by Argyll for the Services with which you are provided.

“Supplier” means the organisation which provides Argyll with data and/or information in any form whatsoever.

“Member” means the person, company or organisation which opens the Account and at whose expense the Account is used.

“Site” means a plot of land with regard to which a Member requests Argyll to either provide a Report or another Service.

“Order” means your request with regard to Services to be provided by Argyll.

“Agreement” means the agreement between us, which has taken effect on the basis of your acceptance of these General Terms and Conditions.

“Report” comprises any information about a Site with which you are provided by Argyll.

References to **“we”**, **“us”** and **“our”** are references to Argyll Nederland (‘Argyll’), whose registered office is situated in Nieuwegein. If you are purchasing the Services not directly from Argyll but from an Authorised Reseller, references to ‘Argyll’ or ‘we’, ‘us’ and ‘our’ must be interpreted as referring to Argyll and/or the Authorised Reseller, according to the context.

References to **“you/your”** are references to the contracting party, who places an Order with Argyll and who must be provided with Services by Argyll.

“Websites” means the websites hosted by Argyll and comprises the Content and any Reports, Services, documents, datasets, software and/or information included therein or derived therefrom (or on the basis thereof).

1. General Terms and Conditions

- a. These General Terms and Conditions govern the relationship between Argyll, its Suppliers and you, regardless of whether you are an unregistered visitor to the Website or a registered Member purchasing Services from Argyll.
- b. Should you not expressly accept these General Terms and Conditions, they shall be deemed to have been accepted by you and you agree to be bound by these General Terms and Conditions whenever you place an Order or pay for Services provided or Reports requested.
- c. If the party communicating with Argyll is an Authorised Reseller, then the Authorised Reseller must ensure that you agree to these General Terms and Conditions.
- d. The headings in these General Terms and Conditions are used exclusively for the purpose of convenience and shall not affect the meaning or interpretation of any part of these General Terms and Conditions.
- e. We shall be permitted to modify these General Terms and Conditions and to discontinue or revise any or all aspects of the Services at our sole discretion, with immediate effect and without prior notice. Any changes in and/or variations of these General Terms and Conditions shall be posted on our Websites. Your continued use of the Services shall be deemed to be an acceptance of these changes in our General Terms and Conditions.
- f. Argyll reserves the right to refuse to provide you or any other potential client with Services without giving notice or a reason.

2. Reports

Although Argyll will provide its Services to you with a reasonable degree of care, the Services shall be provided on the basis of the explicit point of departure that you recognise and agree to the points below.

- a. The information and data provided in the Services come from public registers and other sources of third parties. Argyll do not guarantee the accuracy and/or completeness of such information and/or data.
- b. Argyll select the information and data provided in the Services by means of those datasets and information sources that it deems appropriate. Argyll does not guarantee that these sources represent either an exhaustive or a complete summary of all sources that might be consulted.
- c. Argyll do not guarantee that all former or present land uses or characteristics of the site are mentioned in the Services.
- d. The Services provided by Argyll are professional business-to-business services and are not intended to be used or interpreted by any parties other than experts who are experienced in the use of property-related information.
- e. Argyll shall not be liable for any errors and/or inaccuracies in the Services arising from the possible inaccuracy of or omission from any primary or secondary information and/or data, the incorrect processing of information or data by third parties, computer failure or the corruption of data during conversion, geo-coding, processing by the computer or electronic means, or in telephonic transmissions or transmissions through any other telecommunication networks, or the production of print-outs.

f. The Dutch Land Register and the Suppliers shall not be liable for any errors or shortcomings in the Report.

g. Argyll reserves the right without limitation to change the Services, including the Reports and any other Content offered, at all times.

3. Intellectual Property

a. You acknowledge that all Intellectual Property Rights in the Reports and the Services are and will remain the property of either Argyll and/or our Suppliers. Nothing in these General Terms and Conditions purports to transfer, assign or grant any rights to you in respect of the Intellectual Property Rights.

b. Subject to Article 6 (f) you shall be entitled – subject to these General Terms and Conditions at all times – to use the Services and Reports in the following manner and to make the Reports and/or the Services available without further charge to any party:

I. who purchases the Site in its entirety;

II. who provides funding secured on the whole of the Site;

III. on whose behalf you act in a professional or commercial capacity and/or

IV. who acts on your behalf in a professional or commercial capacity, provided that you ensure that these third parties accept Argyll's General Terms and Conditions..

c. The Report is only permitted to be used for your own purposes or those of your Client's, as well as for those of the persons referred to in Article 3 (b). Argyll shall have no liability vis-à-vis any other persons, unless Argyll has consented expressly in writing to the use of the Report and, in exchange for this, reasonable fees are paid to Argyll.

d. All parties that are given access to the Services shall agree to treat the Services and all information obtained from the Services as strictly personal and confidential and to limit any disclosure thereof to employees or professional consultants, in order to enable the party concerned to conduct its internal business. The requirement of this Article to treat the Services as confidential shall comprise the requirement to maintain adequate security measures to protect the Services against any unauthorised access, unauthorised use or unauthorised copying.

e. All recipients of the Services agree (and agree to ensure that their employees, agents and/or suppliers who may have access to the Services from time to time agree), except as permitted on the basis of these General Terms and Conditions or a separate agreement with Argyll, to not:

I. implement or seek to implement any modification, combination or change with regard to the Service, nor permit any other party to do so;

II. copy, use, market, resell, distribute, combine, modify, add to or effect any redistribution, reproduction, translation, publication or reduction to a form readable by an electronic medium or a machine of, nor to operate, otherwise treat, apply (except as expressly permitted by applicable law), reverse engineer, decompile or disassemble the Services, Reports, Content or Website;

III. remove, modify or otherwise change any trademark or proprietary mark in any part of the Services, whilst acknowledging that the ownership of the Content is as laid down in this

Article, in those cases in which this Content is incorporated into or used in your own documents, reports, systems and/or services, regardless of whether or not these are supplied to a third party; and/or

IV. create a product that is derived, whether directly or indirectly, from the data contained in the Services.

f. You shall recognise our and our Suppliers' proprietary rights to the Content, including in those cases in which this Content is incorporated into your own documents, reports, systems and/or services, regardless of whether or not these are supplied to any third party.

g. You shall be permitted to make five copies of any Report, although you shall not be authorised to resell the Report or any part or copy thereof. You shall not be permitted to make additional copies, whether in whole or in part, without the prior permission in writing of Argyll, who shall be entitled to demand a fee for each additional copy.

h. You herewith agree to fully indemnify Argyll against all claims vis-à-vis Argyll of all third parties to whom you have made the Reports and/or Services available.

i. You agree to follow all reasonable instructions that we may give from time to time in respect of the use of the Intellectual Property Rights, including, without limitation, the acknowledgement that the Services and Reports for you, your Client and the persons referred to in Article 3 (b) are confidential.

j. The map material included in the Services is protected by copyright and shall not be used for any purposes outside the context of the Services, but exclusively in accordance with these General Terms and Conditions.

4. Costs

a. It is possible for Argyll to provide you with credit facilities to enable you to effect transactions or to open an Account. Argyll reserves the right to withdraw the credit facilities at all times without giving prior notice.

b. You shall be responsible and liable for any use of the Services through your Account, regardless of whether or not you have permitted this use. You shall be fully liable for all costs charged to your Account.

c. Apart from Argyll's Fees, VAT shall be payable at the prevailing rate. All other applicable indirect taxes relating to your use of the Services shall be paid by you.

d. Invoices shall be issued for each Order or on a monthly basis. You shall pay Argyll's Fees at the rates set out in the invoice issued by Argyll or its Authorised Reseller. Argyll's Fees shall be payable in full within 21 days, without deduction, counterclaim or set-off. You acknowledge that firm due dates apply to the payment of invoices. Failure to pay Argyll's Fees may result – at our sole discretion – in Argyll terminating or restricting the use of your Account and the provision of its services. Argyll reserves the right to amend its rates from time to time. Services shall be invoiced at Argyll's rates as prevailing on the date on which the Order was placed.

e. We may charge interest due to late payment at a rate of 8% per annum above the base interest rate of the National Westminster Bank plc.

f. Argyll or its Authorised Reseller shall not be obliged to invoice any party for its services other than you. However, if Argyll or its Authorised Reseller should invoice a third party at your request, and this invoice is not accepted or remains unpaid, Argyll or its Authorised Reseller shall be entitled at all times to cancel the invoice concerned and to invoice you directly for the Services in question. If your Order should comprise several Services or severable parts within one or several Services, the fact that Argyll or its Authorised Reseller has failed to provide one or several parts of the Services shall not prejudice the option of Argyll or its Authorised Reseller to demand payment for the Services delivered to you.

5. Termination

a. Argyll shall be entitled to suspend or terminate your rights under these General Terms and Conditions without any liability vis-à-vis you, with immediate effect, in the event that:

I. you would fail at any time to make any payment due under Article 4;

II. you would repeatedly fail to fulfil or actually fulfil or cause others to fulfil these General Terms and Conditions;

III. you would commit at any time a breach and fail to remedy this breach within seven days from receipt of a written notice to this effect. In addition to this, Argyll shall be entitled to rectify the non-fulfilment and to recover the costs thereof from you; and/or

IV. you would perform at any time an act leading to bankruptcy or insolvency, would at any time be unable to pay your accounts payable, would make an agreement or effect a settlement with your creditors, would go bankrupt (whether petitioned by you or not), at any time a decision is given or would be taken with regard to your moratorium on payments (except for the purpose of a merger or reorganisation outside bankruptcy), you would at any time discontinue your business or make preparations for doing so, or if, at any time, a

trustee, administrator, receiver or any similar official is appointed with regard to your estate, whether in whole or in part.

b. If your rights are terminated by virtue of this Article and you have made an advance payment, we will refund you a reasonable proportion of the balance as determined by us in relation to the value of the Services purchased earlier.

c. We shall be entitled to suspend the Agreement between you and Argyll at all times without prior notice for an indefinite period of time if, in our opinion, you fail to fulfil any of the provisions of these General Terms and Conditions.

6. Liability

a. We only give the guarantees and exclusively accept liability to the extent stated in this Article 6.

b. Nothing in these General Terms and Conditions excludes either party's liability for the death or personal injury caused by that party's wilful intent or deliberate recklessness.

c. Since most of the information included in the Services is delivered to Argyll by other parties, Argyll has no control over its accuracy or completeness. Nor does it fall within the scope of the Services to verify locally whether or not the information is correct. Consequently, Argyll shall only be liable vis-à-vis you, subject to Article 6 (b), for any loss or any damage caused by its negligence or wilful default. Neither Argyll, its Suppliers nor any person providing the information contained in the Services shall be liable for any inaccuracies, errors or omissions in the Services under any other circumstances. Nor shall Argyll be liable if the Services are used for purposes other than those in accordance with these General Terms and Conditions.

d. Argyll and its Suppliers shall not be liable for any indirect or consequential loss, damage or costs (including loss of profit, loss of contracts or orders or loss of goodwill), arising in any way whatsoever from a problem, event, action or omission on Argyll's or Supplier's part, or any indirect or consequential loss or damage of any nature whatsoever, or for physical damage or physical loss of your material possessions, any other indirect or consequential loss, damage or costs of any nature whatsoever, regardless of whether or not the foregoing occurs on the basis of an agreement, tort (including negligence), indemnity or otherwise.

e. In any event, and notwithstanding any provisions of these General Terms and Conditions, Argyll's liability on the basis of an agreement, tort (including negligence or breach of any legal liability) or otherwise, which occurs in any way whatsoever because of or in connection with our contract (except in relation to death or personal injury), shall be limited to a total amount of no more than € 10 million. Argyll shall not be liable for any defect, failure or omission in relation to Services of which Argyll has not been notified within six months from the date on which the matter became apparent, and in any event within one year from the date of the Report if the claim refers to a Report. If a claim is related to a part of the Services that cannot be invoiced or if you have failed to fulfil a specific part of these General Terms and Conditions, Argyll's liability will be limited to € 1,000.

Argyll

f. You acknowledge that:

1. you have no claim or recourse against either the supplier of Third Party Content or against any of our other Suppliers. You will not hold us liable in any way whatsoever for the selection or calling in of or the acts or omissions of suppliers of Third Party Content or any other

Suppliers (including those with whom we have signed a contract for the operation of various aspects or parts of the Service) in connection with the Services (to avoid any misunderstanding: Argyll is not a supplier of Third Party Content). Argyll does not guarantee that the Services will be provided without interruption and errors, that they will offer specific facilities or functions or that the Content will at all times be complete, correct, accurate, free from defects of any other kind, computer viruses, 'software locks' or any other similar code. However, Argyll will make reasonable efforts to rectify specific inaccuracies within a reasonable period of time after they have come to our notice;

II. it is Argyll's sole obligation to exercise a reasonable degree of care when providing environmental risk information relating to properties vis-à-vis persons who act in a professional or commercial capacity and you herewith declare that you are such a person;

III. a physical inspection of the Site in question does not fall within the scope of the Services offered by Argyll and/ or its Suppliers and that as such we do not guarantee that all former or present land uses or characteristics of the Site are specified in the Services, and the Services do not contain any information about the actual state or condition of a Site, nor should they be used or interpreted as an indication or exclusion of the actual fitness or non-fitness of a Site for a particular purpose, nor can they be relied on to assess the marketability or value or be used as a substitute for any physical investigation or physical inspection;

IV. you are obliged to inspect the Site carefully and to seek any other advice that would be reasonably required prior to taking a decision in respect of the Site to which a Report or Service is related, and you should not rely solely on the Report or another Service of Argyll with the valuation of the Site;

V. Argyll and its Suppliers shall not be held liable in any way whatsoever if a Report relating to a property zoned for residential purposes is used for commercial property or more so than the one property for which it had been requested;

VI. the Services are not aimed at meeting your individual requirements or the requirements of any other party, whilst you accept the entire risk in respect of the suitability of the Services and shall waive any claims relating to the detrimental reliance thereon, and confirm that you are solely responsible for the selection or omission of any specific part of the Content;

VII. you are solely responsible for monitoring the confidentiality of your passwords (including the password(s) of your Designated Users) and for informing us forthwith as soon as you become aware of any unauthorised access to or unauthorised use or copying of any part of the Services, or documents or reports thereof that have been derived or downloaded by any party;

VIII. you are obliged to observe and comply with all applicable laws and regulations;

IX. we offer no guarantee for the performance of any linked internet service not operated by us;

X. you will subject the result of our Services to a reasonable inspection in order to satisfy yourself that there is no question of any defects or shortcomings; if a material defect is found, you will notify us thereof in writing within seven days from its discovery;

XI. without prejudice to any limitations specified in these General Terms and Conditions, if you should use, as part of your business or otherwise, any part of the Website, Content or Services for the benefit of a third party or transfer this to a third party, you will be obliged to draw the attention of this third party to the restrictions, obligations and acknowledgements contained therein;

XII. any support or help given to you in connection with these General Terms and Conditions shall be at your own risk; and

XIII. the information included in the Services comes from various public sources and Argyll will consequently not be liable and expressly rejects all liability for errors, omissions or actual inaccuracies or for any damage caused to persons who act or neglect to act as a result of or in reliance on the information included in these Services.

h. In the event that Argyll provides you with additional services that are not part of the Services or the Content, obtained from a third party, including without limitation professional advice or a professional explanation or conclusion, risk assessment or environmental report or a professional environmental study that is done in respect of a Report relating to your Site, Argyll shall not be liable in any way whatsoever for any information contained therein and/or matters arising from the provision of these extra services to you or your Client. In these circumstances, Argyll will be deemed to have acted as an agent. The provision of these extra services shall be subject to the general terms and conditions of the third party concerned. i. Argyll provides its Services solely for the purpose of being used by the persons referred to in Article 3 (b) and not for any other purpose. The Services shall not be relied upon by any other third party. Argyll does not accept any responsibility and shall not be liable vis-à-vis any third party for any loss or damage caused by reliance on its Services. Any third party relying upon the Services, including without limitation the insurers referred to in this Article 6, shall do so entirely at its own risk. Recipients of the Services are obliged to rely on their own expertise and opinion when determining the suitability of the Services for their own purposes and use and are recommended to use the Services tactfully and not to base major business decisions exclusively thereon. The Services of Argyll are only one of the resources available to assess environmental and geological risks and/or any other risks relating to a property or a plot of land and must be used in conjunction with other recognised evaluation methods.

j. In relation to the Services, no deadlines apply.

7. Force Majeure

You acknowledge that Argyll and/ or its Suppliers shall not be liable for any delay, interruption or failure in the provision of Services, which is caused or to which a contribution is made by a circumstance beyond our reasonable control, including without limitation power cuts, telecommunication failure or overload, computer failure, the incorrect processing of data, or delays in the receipt, loading or checking of data, the corruption of data during conversion, geo-coding, processing by the computer during electronic communication or the production of print-outs.

8. Severability

If any provision of these General Terms and Conditions is found by a court or any other competent authority to be null and void, invalid, illegal or unenforceable, then this provision shall be considered to have been removed from these General Terms and Conditions and never to have formed part thereof, whilst the other provisions shall remain in full force and effect.

9. Governing law

This Agreement shall be governed by and construed in accordance with Dutch law and each of the parties shall agree irrevocably to submit to the exclusive jurisdiction of the competent court in Amsterdam in the event of any claim or matter arising from our Agreement. If a dispute should arise out of or in connection with our Agreement (a 'Dispute'), the parties undertake that they will seek to have the Dispute resolved amicably, prior to the commencement of court proceedings, by means of an alternative dispute resolution procedure acceptable to both parties, with the assistance – if required – of the *Centre for Dispute Resolution* ('CEDR'), by virtue of a written notification initiating that procedure. If the Dispute has not been resolved to the satisfaction of both parties within 60 days from having initiated this procedure or if either of the parties should fail to participate in the procedure, refuse to participate or decide to withdraw, then either of the parties shall be entitled to refer the Dispute to the Court.

10. Entire agreement

a. These General Terms and Conditions, together with the prices and delivery details posted on our Websites, as well as your Order, contain our entire Agreement in respect of the provision of Services to you by Argyll. Any former stipulations, agreements or former promotional material or former commercials, issued in writing or verbally on our behalf by a seller, a third party or a representative, ought not to be interpreted as a variation of these General Terms and Conditions or as an authorised statement concerning the nature or quality of the Services that we offer for sale. With the exception of fraud or false statements, Argyll shall not be liable for the untrue or misleading nature of such a statement.

b. These General Terms and Conditions shall prevail at all times, to the exclusion of all other general conditions, including general conditions that you intend to apply, even if these other provisions are offered in a later document or seek to exclude or set aside these General Terms and Conditions and neither the dealings between the parties nor trade practices shall alter these General Terms and Conditions.

11. General

a. You shall not be permitted to transfer your rights and obligations under these General Terms and Conditions to a third party in any way whatsoever, without our prior permission in writing.

b. Argyll shall be permitted to transfer its rights and obligations under these General Terms and Conditions without prior notice or any limitation.

c. We shall be entitled to authorise or permit our suppliers and any other third parties to provide us and/or you with services that are required for or related to the Services and to fulfil our obligations and to exercise our rights under these General Terms and Conditions, including possibly the collection of payments on our behalf.

d. Any renunciation on our part to exercise any right or any power or provision by virtue of these General Terms and conditions, or any delay in their exercise, shall not be valid as a renunciation thereof. Nor shall the mere or partial exercise of any right or any power or provision by virtue of these General Terms and Conditions exclude the exercise of that or any other right or any other power or provision.

e. References in these General Terms and Conditions to laws shall be interpreted as references to those laws as may be amended or re-enacted from time to time, and shall include lower legislation or regulations.

f. Unless stated otherwise in these General Terms and conditions, all notices from you to Argyll shall take place in writing and shall be sent to Argyll's registered office (or, in the case of an Authorised Reseller, to its registered business address). All notices from us to you shall be posted on our Websites from time to time.

g. Argyll reserves the right to listen to or record any telephone conversations for training purposes.

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