

# Terms of Use

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## GEPARD Websites and Web Content

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This site is operated and maintained by GEPARD, J. Scheiber KG, located in Vienna, Austria.

These Terms of Use shall apply to all GEPARD websites and portals, including but not limited to

- GEPARD Home Page (<https://www.gepard.at/>)
- GEPARD File Transfer (<https://www.gepard.at/myfiles>)
- CineSat Product Website (<https://www.cinesat.com/>)
- CineSat Support Pages (<https://support.cinesat.com/>)
- CineSat File Transfer (<https://www.cinesat.com/myfiles>)

They are collectively referred to as GEPARD Websites.

GEPARD provides you with access to a variety of web pages, text, documents, and other works of authorship, images, graphics, audio and video content, software, services, forums, discussion groups, blogs, and other content. The GEPARD Websites and foregoing content are collectively referred to as GEPARD Web Content.

All GEPARD Web Content is intended for business-to-business information and data exchange and not for private consumers.

## Users of Web Content

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If you visit GEPARD Websites without login, you are an Anonymous Visitor and have only access to general company and product information. Anonymous Visitors are not entitled to access Restricted GEPARD Web Content and shall not try to obtain such access. If you need access to Restricted GEPARD Web Content, please apply for a login account by using a web form or contacting GEPARD.

If GEPARD has provided you with a login for a GEPARD Website you are a Registered User and all GEPARD Web Content that is only available after a login is referred to as Restricted GEPARD Web Content. Registered Users are either business or project partners with whom GEPARD exchanges confidential data and information, or buyers of a GEPARD product who need access to the product support areas.

Buyers of a GEPARD software who register for accessing support content are referred to as Support Users.

GEPARD may at any time close your access to Restricted GEPARD Web Content if you should fail to comply with the provisions of these Terms of Use or if you are no longer entitled to access such content. Users of the CineSat software need an active update subscription to login to CineSat support areas and software downloads.

## Terms for Anonymous Visitors

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As Anonymous Visitor you agree to all terms and conditions of these Terms of Use with exception of the “Terms for Registered Users” and “Terms for Support Users”. You may not access OR use GEPARD Web Content if you do not accept these Terms of Use.

## Terms for Registered Users

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All users who access Restricted GEPARD Web Content through a login procedure/account are referred to as Registered Users.

### **User Name and Password**

When applying for a login account, you must provide GEPARD with accurate, complete, and up-to-date information about the person and organization using this account. GEPARD reserves the right to change the requested user name in order to make it unique and to follow certain conventions imposed by the web service software. Upon successful application, GEPARD will provide you with your user name and an initial password using two different means of transmission (e.g. email and fax).

You agree (1) to change your password with your first login instantly after receiving the default login credentials, (2) not to share your password(s), account information, or access to Restricted GEPARD Web Content and (3) that you are responsible for maintaining the confidentiality of password(s) and account information and for all activities that occur under your password(s) or account(s) or as a result of your access to a GEPARD Website.

You agree to immediately notify GEPARD of any unauthorized use of your account or any other breach of security. GEPARD will not be liable for any loss you incur as a result of someone else using your password and account with or without your permission.

You further agree to notify GEPARD (1) about any changes in the account information, (2) if the account owner leaves your organization or (3) if the account owner is no longer in charge of the activities for which the access has been

granted (e.g. staff moving to another department). GEPARD will then either close this account or update the account details with a replacement account owner you appoint.

### **Additional Terms**

Some GEPARD Web Content may have Additional Terms like license agreements, privacy terms, export terms, subscription agreements, or other terms and conditions (“Additional Terms”) that apply to your access to or use of the applicable GEPARD Web Content. In the event of a conflict, inconsistency, or difference between these Terms of Use and the Additional Terms, the Additional Terms will control.

These Terms of Use and the Additional Terms (where applicable) form a legally binding agreement between you and GEPARD. Therefore, it is important that you read them carefully before accessing any GEPARD Web Content. In order to use GEPARD Web Content, you must first agree to these Terms of Use. You may not access OR use GEPARD Web Content if you do not accept these Terms of Use. By using GEPARD Web Content, you acknowledge that you have read and agree to these Terms of Use. If you are an individual acting on behalf of a corporation or other legal entity, you represent that you have authority to agree to these Terms of Use on behalf of the legal entity. If you do not agree to these Terms of Use, then you may not access or use GEPARD Web Content.

### **Use of Restricted GEPARD Web Content**

GEPARD grants you a personal, non-assignable license to use Restricted GEPARD Web Content for your own internal use while you are a Registered User. Restricted GEPARD Web Content shall only be used for the purpose indicated and agreed in the login account application (usually a time-limited project that requires sharing of confidential information). Distributing any portion of Restricted GEPARD Web Content to a Third Party, using any Restricted GEPARD Web Content for the benefit of a Third Party, or using Restricted GEPARD Web Content in connection with software other than GEPARD Software under an active GEPARD subscription are all prohibited.

### **User Provided Content**

Some GEPARD Websites may allow users to contribute information, text, images, media files, training and education material, technical papers, program or script source code that could be interesting for other users and/or for further product development. This will collectively be referred to as “User Provided Content”. If you should request such material as being confidential you must not place it in areas accessible by others.

Note: All files shared or exchanged point-to-point between GEPARD and you are by default confidential material and NOT User Provided Content.

By publishing, and/or making available for download and use of User Provided Content, you represent and warrant that you are the owner of all rights in this content. You further grant GEPARD a perpetual, irrevocable, worldwide, royalty-free, and non-exclusive license to reproduce, adapt, modify, translate, publish, publicly perform, publicly display, and distribute the content which you submit, post, or display on or through a GEPARD Website. You agree that this license includes a right for GEPARD to make such content available to other companies, organizations, or individuals with whom GEPARD has relationships for the provision of services and to use such content in connection with the provision of those services. You understand that GEPARD may (a) transmit or distribute the content over various public networks and in various media; and (b) make such changes to the content as are necessary to conform and adapt that content to the technical requirements of connecting networks, devices, services, or media. You agree that this license shall permit GEPARD to take these actions. You confirm and warrant to GEPARD that you have all the rights, power, and authority necessary to grant the above license.

### **Indemnification**

You agree to indemnify and hold harmless GEPARD and the persons working at or for GEPARD from and against any and all claims, liabilities, damages, losses, or expenses, including reasonable attorneys' fees and costs, due to or arising out of content that you submit to a GEPARD Website, your violation of the Terms of Use or Additional Terms, or your violation or infringement of any Third Party rights.

### **Monitoring**

GEPARD has the right, but not the obligation, to monitor User Provided Content in the GEPARD Websites to determine compliance with these Terms of Use and any other Additional Terms. GEPARD has the right in our sole discretion to edit, refuse to post, or remove any material submitted to or posted on a GEPARD Website that we find to be in violation of these Terms of Use or otherwise objectionable. You are solely responsible for any information you post, transmit, or otherwise make available on a GEPARD Website. You acknowledge and agree that GEPARD does not have any liability for any action or inaction with respect to any conduct, communication, or posting on a GEPARD Website. GEPARD is not obliged to screen and examine content provided by others.

## **Additional Terms for Support Users**

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All terms for Registered Users shall apply to Support Users too. If you are a customer of GEPARD software (including but not restricted to the CineSat product), all access to Restricted GEPARD Web Content shall be subject to these Terms of Use and your Software License Agreement.

You may only download and use software from GEPARD Websites if you are a registered buyer of the software and a Registered User of the GEPARD Web Content, and if your update subscription for the Product is active and valid (your payment received).

All software downloads offered on GEPARD Websites are free of charge and are intended only as a backup to physical shipment and to access preliminary test releases and technical previews. Official and formal delivery of GEPARD software and major software updates will always be on physical media (like CD-ROM/DVD) in order to properly classify such physical delivery as "Product Delivery" for reasons of tax laws and export statistics.

All download, distribution, and use of software shall be governed by the End User License Agreement (EULA) for the respective software product and all other related agreements between you and GEPARD. Your right to continue to access software from a GEPARD Website is subject to an active valid update subscription and your continued compliance with the License Agreement(s) and Terms of Use and with any Additional Terms for specific GEPARD Web Content (if applicable).

## Accepting the Terms of Use

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By using GEPARD Web Content, you acknowledge that you have read and agree to these Terms of Use.

GEPARD may change these Terms of Use from time to time by updating this page. If changed in a material way, a notice will be posted along with the updated document. The revised Terms of Use will be effective when posted. Your continued use of a GEPARD Website after changes to the Terms of Use have been published constitutes your binding acceptance of the updated Terms of Use. If at any time the Terms of Use are no longer acceptable to you or should not be in line with applicable law in your country, you must immediately cease all use of GEPARD Web Content.

## Confidentiality

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All Restricted GEPARD Web Content is designated as “confidential”, and you agree not to disclose such information without GEPARD's prior written consent.

## Privacy

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Any personal information collected on a GEPARD Website may be accessed and stored globally and will be treated in accordance with the GEPARD Privacy Policy located at [https://support.cinesat.com/pub:legal:privacy\\_policy](https://support.cinesat.com/pub:legal:privacy_policy)

## Copyrights

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All GEPARD Web Content is protected by intellectual property law. Unless otherwise stated, GEPARD either owns the copyright and related intellectual property rights in GEPARD Web Content or has obtained the permission of the owner of the copyrights and related intellectual property rights to make it available to you for the purposes described in the Terms Of Use.

GEPARD respects the intellectual property of others. If you believe that any element of content on this site is in violation of intellectual property rights, please inform us immediately.

You may not reproduce, modify, sell, distribute, or create derivative works based on GEPARD-owned GEPARD Web Content unless you have been specifically authorized to do so by GEPARD or, with regard to any Third-Party content, by the Third-Party owners.

## Trademarks

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CineSat is a registered trademark of GEPARD.

Company or product names mentioned in GEPARD Web Content may be trademarks or registered trademarks of their respective companies. You are not permitted to use these Marks without the prior written consent of GEPARD or such Third Party who may own the Mark.

## Links to Other Websites

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GEPARD Websites contain links to other websites and resources that are provided for convenience only. GEPARD has not necessarily reviewed the linked websites and is not responsible for the content or availability of any linked websites. The inclusion of any link to a website does not imply endorsement by GEPARD of the website or their entities, products, or services.

## Rules of Conduct

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Your use of GEPARD Web Content is subject to all applicable laws and regulations, and you agree not to violate such laws and regulations. Any attempt to deliberately damage a GEPARD Website or GEPARD Web Content is a violation of criminal and civil laws. GEPARD reserves the right to seek damages from any such person to the fullest extent permitted by law. In addition, you agree not to post or transmit through a GEPARD Website any material or content that violates or infringes in any way the rights of others or solicits, encourages, or promotes the use of illegal substances or activities; which is unlawful, threatening, abusive, harassing, defamatory, libelous, derogatory, invasive of privacy or publicity rights, vulgar, obscene, bigoted or hateful, profane, scandalous, pornographic, indecent or otherwise objectionable, gives rise to civil or criminal liability, or otherwise could violate any applicable law.

You may not engage in any activity on a GEPARD Website that restricts or inhibits any other user from using or enjoying the GEPARD Website or GEPARD Web Content, whether by "hacking," "cracking," "spoofing," or defacing any portions of a GEPARD Website. You agree not to attempt to gain unauthorized access to any parts of a GEPARD Website or any user accounts, computer systems, or networks. Access to and use of password-protected or secure areas of a GEPARD Website is restricted to authorized users only. You agree not to access or use a GEPARD Website in any manner that could damage, disable, overburden, or impair (or interfere or attempt to interfere with the proper working of) any user accounts, GEPARD computer systems, or GEPARD networks.

You may not post or transmit through a GEPARD Website any advertising or commercial solicitations; promotional materials relating to services that are

competitive with GEPARD; software or other materials that contain viruses, worms, time bombs, Trojan horses, or other potentially harmful or disruptive components; political campaign materials; chain letters, mass mailings, or spam mail. You may not use any robot, spider, site scraper, or other automatic device or process to retrieve, index, "data mine," or otherwise access GEPARD Web Content. You may not harvest, collect, or use information about GEPARD Website visitors.

## Disclaimer

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Your use of GEPARD Web Content is at your own risk. GEPARD Websites are provided on an "AS IS" and AS AVAILABLE basis, without any other warranties or representations, express or implied, as to the availability, functionality, or usefulness of GEPARD Web Content. GEPARD disclaims all warranties or conditions, express or implied, including, but not limited to, warranties of merchantable quality, merchantability, fitness for a particular purpose, non-infringement, or those arising by law, statute, usage of trade, or course of dealing.

The entire risk for downloading and/or using any material (including GEPARD Web Content) through the use of a GEPARD Website is assumed by you. You will be solely responsible for any damage to your computer system or loss of data or functionality that results from the download and/or use of any material.

Information and software created by Third Parties that you may access on a GEPARD Website or through links is not adopted or endorsed by GEPARD and remains the responsibility of the Third Party.

## Limitation of Liability

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Your use of GEPARD Web Content is entirely at your own risk. If you are not fully aware of the typical and latest threats and risks involved in the use of websites and transmission of information via Internet, and of downloading and using downloaded content, you should consult your IT administrator or user help desk for proper guidance, before using GEPARD Websites and GEPARD Web Content. By accessing a GEPARD Website you represent that you are aware of these risks and have taken the necessary precautions to protect you and your computers and network against such threats.

GEPARD shall not be liable for any direct or indirect damages suffered by users or any Third Party as a result of the Use of or inability to Use a GEPARD Website or GEPARD Web Content. In no event will GEPARD be liable for any lost revenue, profit, business, economic advantage, data, or life, or for direct, indirect, special, consequential, incidental, punitive, or exemplary damages, however caused and regardless of the theory of liability, even if GEPARD has been advised of the possibility of such damages, or they are foreseeable, however they arise, whether in breach of contract or in tort (including negligence), including without limitation



damages due to (1) the Use of or inability to Use a GEPARD Website or GEPARD Web Content, or (2) GEPARD Web Content or software you may download, use, modify, or distribute, or (3) statements or conduct of any Third Party on a GEPARD Website, including but not limited to unauthorized access to, or alteration of transmissions or data, malicious or criminal behavior, or false or fraudulent transactions.

We are also not responsible for claims by a Third Party.

The limitations in this section shall apply whether or not the alleged breach or default is a breach of a fundamental condition or term or a fundamental breach.

## Jurisdiction

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The validity, interpretation, and enforcement of these Terms of Use shall be governed by and construed in accordance with the substantive laws in force in the state of Austria. The terms and conditions used by fully qualified merchants exclusively according to Austrian jurisprudence shall apply.

This Agreement and any contracts based on this Agreement will not be governed by the conflict of law rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

The place of jurisdiction for all disputes arising out of or relating to these Terms of Use is Vienna, Austria. Each party irrevocably consents to such personal jurisdiction and waives all objections to this venue. Alternatively, if parties agree, a recognised European International Arbitral Center can be accepted for the settlement of disputes.

In the absence of a suitable legal aid agreement between the state of Austria and the state where the Customer is located, GEPARD reserves the right to change the place of court to the state or economic region where the Customer is located or registered, or where the Product is being used.

You agree that GEPARD may provide you with notices, including those regarding changes to the Terms of Use, by email or postings on GEPARD Websites. If one or more of the provisions contained in the Terms of Use is held invalid or unenforceable in any respect by any court of competent jurisdiction, such holding will not impair the validity, legality, or enforceability of the remaining provisions. Invalid or impracticable terms and conditions are to be replaced by analogue regulations that nearest reflect the original effective purpose of the ineffective clauses.

GEPARD's failure to exercise or enforce any right or provision of these Terms of Use will not constitute a waiver of such right or provision.

The section heading of these Terms of Use are for convenience only and have no legal or contractual effect.

## Contact

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Related to the Terms of Use and Privacy Policy:

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[Impressum](#)