

TERMS OF USE for Planner Software 3.0

1. General information

- (1) GEALAN Window Systems, Inc. or its affiliate (hereinafter referred to as GEALAN) provides users with a calculation tool that enables the user to combine and balance certain data and calculations related to the planning of a window unit (e.g. maximum unit sizes, configuration, glass and reinforcement, installation type, installation situation, static pre-dimensioning) (the “Services”).
- (2) The static pre-dimensions created with Planner Software 3.0 are not a replacement for a property-based static calculation. All profile sections shown are schematic representations only and for demonstrative purposes. General technical rules, regulations and the processing guidelines from GEALAN are essential for planning and execution and need to be considered when using the Services.
- (3) In the event of inconsistencies or contradictions between these Terms of Use and other terms and conditions, agreements or policies agreed with GEALAN, these Terms of Use shall take precedence with respect to the use of the Services.

2. Scope of application

- (1) These Terms of Use between the user and GEALAN shall be deemed to have been agreed upon with the installation of the corresponding software or the first use of the Services or upon completion of registration for the Services. By accepting the use of the Services, the user confirms that they have read and fully agree to these Terms of Use. If this is not the case, use of the Services is not permitted.
- (2) These Terms of Use shall apply to all upgrades, updates, additions and revisions to the Services, as well as to all services and information made available through the use of the Services, unless special arrangements are made for this purpose, which shall then prevail.
- (3) Any terms and conditions of the user that conflict with or deviate from these Terms of Use or the statutory provisions shall not apply, even if GEALAN does not specifically object to them.
- (4) GEALAN may change these Terms of Use at any time. GEALAN will inform the user of the amended Terms of Use. If the user does not object to the changes within two (2) weeks of notice and continues to use the Services, this shall be regarded as acceptance of the changed Terms of Use. GEALAN may terminate the use of the Services for the user in the event that the user objects to the amended Terms of Use.
- (5) If the Services are used by companies or other legal entities, the respective company or legal entity is represented by the user and must assume responsibility for the actions and knowledge of the user.
- (6) GEALAN may reject any registration application and any attempt to use the Services at any time without specifying any reasons and at its full discretion.
- (7) GEALAN does not guarantee that Planner Software 3.0 is available to the user at any time and without interruption. In particular, the performance of maintenance work and the elimination of technical faults may make it necessary to suspend the usability of

Planner Software 3.0 temporarily. GEALAN expressly reserves the right to discontinue or limit the availability of all or part of Planner Software 3.0 at any time and without incurring liability.

3. Registration

- (1) Use of the Services requires the creation of a user account on the GEALAN website. In order to register for Planner Software 3.0, access to Planner Software 3.0 must be requested in the myGEALAN area. After activation and initial login to Planning Software 3.0, a user's data will be transferred.
- (2) The user is obligated to specify and maintain correct, up-to-date, and complete registration data at all times.
- (3) The user is obligated to always keep their login information, including their password secret and secure and to take all other appropriate measures to prevent unauthorised access to their user account.
- (4) The user is responsible for all activities carried out using their registration data.
- (5) The user must inform GEALAN immediately if they become aware of any actual or suspected access or unauthorised use of their registration data.

4. Licence

- (1) GEALAN grants the user a single, non-exclusive, non-transferrable right, limited to the term of these Terms of Use, to use the Services for the purposes for which it is provided by GEALAN, in accordance with these Terms of Use.
- (2) In particular, the user shall not be permitted to:
 - a. Copy the Services and the components used for its provision, except for archiving purposes or when strictly necessary for legitimate use;
 - b. Modify, adapt, publish or create derivative works thereof;
 - c. Publish, disclose, sell, rent, lease, loan, distribute, make available online, sublicense the Services, or make the Services available to a third party without prior written consent from GEALAN.

The user is not entitled to remove or alter copyright notices or other references to intellectual property associated with the Services. The licence does not include access to source code. The user shall not be entitled to decompile, disassemble or reverse engineer any components of the Services, unless otherwise required by law or these Terms of Use.

5. User obligations

- (1) Insofar as the user provides GEALAN with user content (e.g. uploading this to storage provided by GEALAN) as part of the use of the Services, the user ensures in particular that
 - a. the user possesses the necessary rights for the provision of the Services by GEALAN and has obtained all necessary consents (in particular consents as required under applicable data protection laws and regulations);
 - b. the use of the user content required for the provision of the Services by GEALAN does not infringe any intellectual property rights, including but not limited to

- copyright, trademark rights, patent rights, trade secrets or other rights of third parties;
- c. the use by GEALAN of the user content required for the provision of the Services does not infringe any copyright, trademark rights, patent rights, trade secrets or other rights of third parties (e.g. data protection law);
 - d. the transmission of the user content and its use in accordance with the contract by GEALAN for the provision of the Services does not otherwise violate applicable laws or legal rights; and
 - e. the user content does not contain any viruses, Trojans, or similar malware.

The user will inform GEALAN immediately if there are indications of a violation of any of the regulations described above.

- (2) GEALAN is not obliged to and shall not scan or otherwise check user content for legal violations. However, GEALAN may refuse the processing of user content by the Services or may delete transmitted user content if GEALAN determines that there are reasonable grounds to believe that its use may violate these Terms of Use or lead to violations of applicable laws or regulations.
- (3) GEALAN may block access to the Services for the user at any time if the user fails to comply with their obligations under these Terms of Use (in particular the warranties set out in Section 5(1)).
- (4) If user equipment causes damage to the GEALAN technical infrastructure, GEALAN may demand compensation from the user for the costs arising therefrom.
- (5) The user is obliged to use appropriate, industry standard and up-to-date technical and organizational safety precautions (firewall, virus scanner, etc.) for their own protection and to protect the Services.
- (6) If the user notices insufficient performance or related issues, user shall immediately inform GEALAN and describe the issue, as well as the circumstances associated with its occurrence, in as much detail as possible. GEALAN shall endeavour to remedy the defect within a reasonable time. The obligation to perform remedial action is limited to the performance, but not that the purpose of the performance is accomplished. After the issue has been remedied by GEALAN, the user may have to upload the data again.

6. Geographic Restrictions

The owner of the Website is based in the State of Ohio in the United States. We provide this Website for use only by persons located in the United States. We make no claims that the Website or any of its content is accessible or appropriate outside of the United States. Access to the Website may not be legal by certain persons or in certain countries. If you access the Website from outside the United States, you do so on your own initiative and are responsible for compliance with local laws.

7. Intellectual Property Rights

The GEALAN Website and its entire contents, features, and functionality (including but not limited to all information, software, text, displays, images, video, and audio, and the design, selection, and arrangement thereof) are owned by GEALAN, its licensors, or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret, and other intellectual property or proprietary rights laws.

You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store, or transmit any of the material on the GEALAN Website, except as follows:

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- You may store files that are automatically cached by your web browser for display enhancement purposes.
- You may print or download one copy of a reasonable number of pages of the Website for your own personal, non-commercial use and not for further reproduction, publication, or distribution.
- If we provide desktop, mobile, or other applications for download, you may download a single copy to your computer or mobile device solely for your own personal, non-commercial use, provided you agree to be bound by our end user license agreement for such applications.

You must not:

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- Use any illustrations, photographs, video or audio sequences, or any graphics separately from the accompanying text.
- Delete or alter any copyright, trademark, or other proprietary rights notices from copies of materials from this site.

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8. Links from the GEALAN Website

If the GEALAN Website contains links to other sites and resources provided by third parties, these links are provided for your convenience only. This includes links contained in advertisements, including banner advertisements and sponsored links. We have no control over the contents of those sites or resources and accept no responsibility for them or for any loss or damage that may arise from your use of them. If you decide to access any of the third-party websites linked to this GEALAN Website, you do so entirely at your own risk and subject to the terms and conditions of use for such websites.

9. Disclaimer of Warranties

You understand that we cannot and do not guarantee or warrant that files available for downloading from the internet or the GEALAN website will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our site for any reconstruction of any lost data.

TO THE FULLEST EXTENT PROVIDED BY LAW, WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES, OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA, OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE GEALAN WEBSITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE GEALAN WEBSITE OR YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.

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TO THE FULLEST EXTENT PROVIDED BY LAW, GEALAN HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR PARTICULAR PURPOSE. THE FOREGOING DOES NOT AFFECT ANY WARRANTIES THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

10. Limitation on Liability

TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT WILL GEALAN, ITS AFFILIATES, OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS, OR DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE GEALAN WEBSITE, ANY WEBSITES LINKED TO IT, ANY CONTENT ON THE GEALAN WEBSITE OR SUCH OTHER WEBSITES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, OR OTHERWISE, EVEN IF FORESEEABLE.

TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT WILL THE COLLECTIVE LIABILITY OF THE COMPANY AND ITS SUBSIDIARIES AND AFFILIATES, AND THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS, AND DIRECTORS, TO ANY PARTY (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE) EXCEED THE AMOUNT YOU HAVE PAID TO GEALAN IN THE LAST TWELVE (12) MONTHS FOR THE APPLICABLE CONTENT, PRODUCT, OR SERVICE OUT OF WHICH LIABILITY AROSE.

The limitation of liability set out above does not apply to liability resulting from our gross negligence or willful misconduct.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

11. Indemnity

The user shall indemnify GEALAN, its affiliates, licensors, service providers, officers, directors, employees and subcontractors, successors, and assigns from and against all claims, liabilities, damages, judgments, awards, losses, costs, expenses, or fees (including reasonable attorneys' fees) arising out of or relating to your violation of these Terms of Use or your use of the GEALAN Website, including, but not limited to, your user contributions, any use of the GEALAN Website's content, services, and products other than as expressly authorized in these Terms of Use, or your use of any information obtained from the GEALAN Website.

12. Support / updates

GEALAN shall provide limited product support and updates on a voluntary basis at its sole discretion. The user is not entitled to further support, updates or support from GEALAN. The GEALAN's obligation to perform remedial action in accordance with point 7 shall remain unaffected.

13. Term

- (1) These Terms of Use shall enter into force on the date specified in Section 2.1 and shall remain in effect for an indefinite period until terminated by GEALAN or the user, in accordance with these Terms of Use.
- (2) Upon termination of these Terms of Use, the user must permanently delete all copies of any components of the service that are still on the devices under their control.
- (3) The right to terminate these Terms of Use for cause remains unaffected in all cases.
- (4) GEALAN reserves the right to change, suspend or discontinue the Service or access to the Service at any time, even without notice, in whole or in part.

14. Data protection and confidentiality

- (1) The user undertakes to treat confidentially for an indefinite period any information which becomes known to the user in connection with these Terms of Use and the Services

provided in accordance with these, which is designated as confidential or recognisable as confidential or commercial or related to business, or is to be treated confidentially for an unspecified period of time due to other circumstances, and to use it only for the purposes of these Terms of Use.

- (2) GEALAN stores and processes the personal data transmitted by the user exclusively for the purpose of providing the Service and in compliance with applicable data protection law. The user must ensure that any transfer of personal data to GEALAN (in particular within the scope of user content) is carried out in accordance with applicable data protection law.
- (3) To the extent that GEALAN collects and processes personal data in the context of the use of the Service by the user, GEALAN's privacy policy applies [\[INSERT HYPERLINK TO PRIVACY POLICY\]](#). By using the GEALAN Website, you consent to all actions taken by us with respect to your information in compliance with the Privacy Policy.

15. Final provisions

- (1) If any provision of these Terms of Use is found to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of these Terms of Use shall remain unaffected. Instead of the invalid provision, the effective and feasible provision which most closely approximates the legal and economic purpose desired by the parties shall be deemed to have been agreed upon retroactively.
- (2) The Terms of Use and our Privacy Policy constitute the sole and entire agreement between you and GEALAN regarding the GEALAN Website and supersede all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding the GEALAN Website.
- (3) To the extent that these Terms of Use require the written form of such statements, a statement in text form is sufficient. This does not apply to terminations pursuant to paragraph 14.
- (4) No waiver by GEALAN of any term or condition set out in these Terms of Use shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of GEALAN to assert a right or provision under these Terms of Use shall not constitute a waiver of such right or provision.
- (5) We may update the content on the GEALAN Website from time to time, but its content is not necessarily complete or up-to-date. Any of the material on the GEALAN Website may be out of date at any given time, and we are under no obligation to update such material.
- (6) All matters relating to the GEALAN Website and these Terms of Use, and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of Ohio without giving effect to any choice or conflict of law provision or rule (whether of the State of Ohio or any other jurisdiction).

Any legal suit, action, or proceeding arising out of, or related to, these Terms of Use or the GEALAN Website shall be instituted exclusively in the federal courts of the United

States or the courts of the State of Ohio, in each case located in the City of Columbus and County of Franklin. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF USE OR THE GEALAN WEBSITE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES; OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

All other feedback, comments, requests for technical support, and other communications relating to the Website should be directed to:

E-Mail Address Website Germany/myGEALAN: info@gealan.de

E-Mail Address Website USA: info@gealanwindows.com

E-Mail Address Planersoftware: psw@gealan.de