

# General Terms and Conditions for "rentingforce" fleet management software

## § 1 Scope of Application and Order of Precedence

1. These General Terms and Conditions (hereinafter referred to as "GTC") apply to the temporary provision of the fleet management software "rentingforce" (hereinafter referred to as "the Software") via the Internet to business organizations, legal entities under public law and special funds under German public law (öffentlich-rechtliche Sondervermögen) (hereinafter referred to as "Customer").
  2. Certain services rendered by Rentingforce may be subject to specific terms of use and/or Service Level Agreements (SLA) in addition to the GTC that will take precedence over the GTC in case of a conflict. In case of a conflict, any provisions contained in contract documents that were accepted by Customer (in particular, in any offer submitted by Rentingforce) will take precedence over the GTC and, as the case may be, any of the applicable specific terms of use and/or SLA. Terms and conditions of Customer conflicting with these GTC do not become part of the Agreement, even in cases where Rentingforce provides services without expressly objecting to such terms and conditions.
  3. Rentingforce reserves the right to revise the GTC. Customer will be informed of any revisions of the GTC in writing or by email and the corresponding changes will be highlighted in this document. They will become effective, unless Customer objects to the revised version within six (6) weeks from receipt of the notification by letter or email. Customer will be expressly advised of the consequences of its failure to respond at the time it is notified of the revised version. In the event that Customer objects to the revised version of the GTC during the period set forth above, the contractual relationship will be continued subject to the previous provisions, however, Rentingforce has the right to terminate the Agreement for cause by giving two (2) week notice.
2. During the term of the Agreement, Rentingforce will provide Customer with storage capacity on a virtual data server at an external data center for storing its fleet data and end-user data captured and managed using the Software ("hosting"). Furthermore, the services include the provision of a website template based on which Customer may create its own customized website with online booking functionality for its end-users (including the generation of its own Customer-specific domain).
  3. Rentingforce warrants an availability of the Software (including access to data stored by Customer) at the transfer point (i.e., at the router exit of the data center commissioned by Rentingforce) of an average of 99% during any the calendar year. The service is deemed to be unavailable to Customer when the Software is not fully available due to circumstances for which Rentingforce is responsible. In particular, the Software is not deemed to be unavailable if no connection with the Software can be made due to
    - operator errors or use of the Software in violation of the Agreement,
    - scheduled and announced maintenance work,
    - technical problems outside the sphere of control of Rentingforce (e.g., Internet connection outside the data center) or
    - force majeureRentingforce shall attempt to announce scheduled maintenance work to Customer by giving reasonable advance notice. The scheduled maintenance work shall not exceed a total of 10 (ten) hours per month.
  4. Rentingforce may temporarily restrict Customer's access to the Software if required for the safety of its operation, for maintaining the integrity of the network, for avoiding serious failures of or damage to the network, Software and/or stored Customer data. Rentingforce shall take the legitimate best interests of Customer into consideration when making this decision, promptly inform Customer of any measures taken and do anything that can be reasonably expected to restore access to the Software as soon as possible.

## § 2 Offer and Conclusion of the Agreement

1. Offers submitted by Rentingforce are subject to change and non-binding, unless they are expressly referred to as binding or state a certain period for acceptance. Rentingforce shall declare its acceptance of purchase orders or contracts placed by Customer within fourteen (14) days from their receipt.
  2. The GTC shall also apply to such contracts that were concluded online via the rentingforce website of Rentingforce. The presentation of the products and services on the website does not constitute any legally binding offer, but merely a non-binding invitation to Customer to submit its offer. When the ordering process is completed by Customer by clicking the Order (with costs) button, Customer submits a binding offer for the conclusion of an agreement. Prior to the completion of the ordering process, Customer will see a separate view of its order data and may check and, if applicable, correct it (e.g., select a different contract term).
  3. Rentingforce shall confirm receipt of the electronic order from Customer by emailing an automatic receipt confirmation. However, this receipt confirmation shall not constitute a binding acceptance of Customer's offer. It merely serves the purpose of informing Customer of the receipt of its order. The Agreement will be concluded by a separate confirmation of the order issued by Rentingforce or, at the latest, by granting Customer access to the offered software. Rentingforce reserves the right not to accept Customer's order(s); this decision will be made in the sole discretion of Rentingforce.
  4. Following an electronic order placed by Customer via the Rentingforce website, the specific order data entered by Customer will be stored by Rentingforce. Customer may retrieve its order data via the website, including after the end of the ordering process. Furthermore, Customer can printout its order data during the ordering process and will receive a copy of them in the automatic receipt confirmation (including the GTC that form an integral part of the Agreement). The GTC, as amended, may also be retrieved and printed from the rentingforce website at any time. Contracts concluded via the website will be made in the German language.
5. An online help center in the customer portal is offered for questions regarding the use and operation of the software during the term of his contract. In the event of any errors or faults which prevent the use of the Software in whole or in part, the customer is offered the service e-mail address support@rentingforce.com.
  6. Rentingforce has the right to provide the contractually agreed services through third parties, i.e., subcontractors. In particular, Rentingforce will use an external data center at a location within the E.U. that will host the Software and store Customer's data.
  7. In the course of ongoing improvement and further development of the Software, new functionality and services may be added and parts of the functionality or partial services may be changed or discontinued, provided, however, that Customer may be reasonably expected to accept this and the attainment of the purpose of the Agreement is not jeopardized.

## § 4 Provision of Services

1. In the event that the parties enter into a separate agreement on the provision of services (e.g., customizing and/or extension of the Software by customization or tailor-made code, modification and/or creation of forms, data migration, etc.), the following paragraphs of this Art. 4 shall apply.
  2. In the event that Rentingforce creates a list of requirements in collaboration with Customer, Customer shall verify this list of requirements promptly after receipt and declare its approval to Rentingforce in writing or by email. The provisions regarding an acceptance procedure set forth in Art. 4 shall apply to the approval of the list of requirements accordingly. The parties shall conclude a separate agreement for subsequent changes of the services that will cause a deviation from the description in the list of requirements. In the absence of any other agreement, Customer shall remunerate the services rendered separately and on a time and materials basis.
  3. Customer will be granted a non-exclusive right to use customer-specific modifications and/or Software extensions and in and to any other customer-specific work results (e.g., forms created for Customer) as set forth in detail in Art. 10 of these GTC. Rentingforce may integrate such customizations and/or extensions of the Software and forms in the software standard version in its own discretion and may make them available to other customers, e.g., in connection with a generally available update.
1. During the term of the Agreement, Rentingforce shall provide Customer with the fully operational Software (in its then-current and released version) via the Internet for its use in accordance with the agreed availability provisions. Updates of the Software will be centrally installed on the server and simultaneously made available to all Customers. Together with the Software Rentingforce will provide Customer with electronic user documentation in the German language. The functionality of the Software is described in detail in the descriptions on the rentingforce website and in the user documentation.



4. To the extent that statutory provisions require an acceptance procedure for the services rendered or if the parties have expressly agreed on an acceptance procedure, the services shall be deemed to have been accepted, no later than when
  - a. the work results were handed over and, to the extent that Rentingforce is also responsible for the installation or implementation of the work results, the installation or implementation has been completed,
  - b. Rentingforce notifies Customer of readiness for acceptance and informs Customer that in case of its failure to carry out an acceptance procedure acceptance will be deemed to have been declared in accordance with this paragraph, and if Rentingforce has requested Customer to carry out the acceptance procedure, and
  - c. (i) if a period of ten (10) working days has expired since the request to carry out an acceptance procedure during which Customer did not notify Rentingforce of any defects or faults preventing acceptance, or (ii) if Customer has started to use the work results for production (i.e., does not use the work results for testing purposes only).

Only material defects or errors that cancel out or heavily impair the usability of the work results for the agreed or intended purpose shall be considered defects or errors preventing acceptance.

#### § 5 Customer Duties

1. Customer shall ensure that the necessary minimum system requirements regarding the hardware and software used by it (in particular, latest version of common Internet browsers) and its Internet connection are met which are required for the contractual use of the Software. The minimum system requirements are set forth in the user documentation. In addition, within the scope of its duty to minimize damage Customer shall take reasonable precautions for the event of a data loss (e.g., by regular data backups, regular checks of its IT systems, etc.). Customer shall be responsible for the proper archiving and backup of its data by making regular backup copies at such intervals that are appropriate based on the risk involved.
2. Customer shall be responsible for its own website that is created using the templates made available by Rentingforce, in particular, with regard to legal conformity of the material posted on the website and compliance with other statutory provisions, e.g., with regard to the contact details of the provider (imprint), the privacy policy, compliance with other provisions of e-commerce and distance selling law, non-competition law and travel law (e.g., for drafting the charter agreement that may be posted by Customer). Customer shall inform its end-users in a clear and transparent form about the data processing services rendered by Rentingforce and the purpose of this collaboration. Within its own sphere of control, Customer will bear the sole responsibility for compliance with all requirements regarding the lawful design and contents of the website and the ordering and/or booking processes in accordance with the law applicable to Customer. In this regard, Rentingforce will not assume any consulting duties vis-à-vis Customer.
3. Customer will grant Rentingforce a non-exclusive, world-wide right that is restricted to the term of the Agreement in and to copyrighted material uploaded to its website (e.g., texts, photos, etc.) at the time of their upload. The right to use is restricted to the use and exploitation of the material (in particular, by its reproduction and by allowing public access to it) for the purpose of contract performance. Customer warrants that it is the owner of the corresponding copyrights and that the use of the material by Rentingforce does not infringe on any third party rights. With regard to any images that show individual persons in a clearly identifiable manner Customer shall obtain the consent of these individuals shown (or their parents or legal guardians) prior to uploading.
4. Customer agrees not to disseminate any material (e.g., images, videos, names) that is offensive, pornographic or morally unacceptable or objectionable, in particular, racist material, and not to create any links to such material. In addition, Customer agrees not to use any designations, names and trademarks that are legally protected. Customer shall comply with any applicable statutory provisions, in particular, in connection with child and youth protection, data protection, protection of moral rights and in the fields of criminal law, copyright law and trademark law at all times. In particular, Customer is not allowed to publish or disseminate material via its website that
  - violates the applicable law or is improper or immoral;
  - violates or infringes on trademarks, patents, utility models, copyrights, designs, business secrets or other third party proprietary rights;

- is obscene, racist, violent, pornographic, adult content or may jeopardize or negatively impact the development of children and adolescents in any other manner;
  - is defamatory, harrasing or libellous;
  - contains personal data of third parties published without their express consent.
5. Customer is not permitted to pass on its personal login data for the Software to unauthorized third parties. Login data shall be stored in a safe place to prevent third party access. Customer shall inform Rentingforce promptly if there is reason to suspect that unauthorized third parties may have become aware of this information.
  6. In the event that Rentingforce suspects that Customer has violated its duty set forth in this Art. 5, Rentingforce has the right to temporarily suspend Customer's access to the Software and to temporarily disconnect Customer's website. Customer shall indemnify and hold Rentingforce harmless from any claims that third parties may assert due to an infringement on their rights by the material uploaded by Customer or due to a breach of any other duty that Customer may have vis-à-vis Rentingforce. In connection herewith, Customer shall also assume any costs and expenses incurred in the legal defense of Rentingforce. This shall not apply to the extent that Customer is not liable for the violation of this duty. Any other claims of Rentingforce remain unaffected.

#### § 6 Fees and Terms of Payment

1. The usage fee is set forth in the offer submitted by Rentingforce or will be shown to Customer in the course of the online ordering process. It is subject to the number of users licensed by Customer. Customer will be issued an advance invoice for the full amount of the usage fee at the beginning of each contract period or, depending on the agreed payment mode, its account will be debited with this fee. In the absence of other agreements, services shall be remunerated by Customer on a time and materials basis and will be invoiced by Rentingforce at the beginning of the month following the provision of services.
2. Rentingforce has the right to reasonably increase the usage fee at the end of the respective term of the Customer Agreement in accordance with the cost increases that have occurred (e.g., data center costs), however, by a maximum of 10%. Rentingforce shall announce this price increase to Customer in a timely manner to allow Customer to terminate the Agreement for convenience by the end of the corresponding contract period, i.e., at the date when the price increase becomes effective. In the event that Customer fails to exercise its right to terminate the Agreement, the Agreement will be automatically renewed and the price increase will become effective. Rentingforce shall advise Customer of this consequence in its notice regarding the price increase. Notwithstanding this provision, Rentingforce has the right to adjust the usage fee if the Software is extended by additional components, features, etc. during the current contract period. Customer may decide in its own discretion whether it wishes to use such additional components, features, etc. that are subject to an additional charge.
3. The statutory value added tax shall be added to all prices and fees. Payments shall be made by Customer within fourteen (14) calendar days from the invoice date with no deductions.
4. Rentingforce has the right to retain an external service provider for processing of payment transactions and to assign its claims to payment it may have against Customer to this third party. In this event, the external service provider will receive only that Customer data required for handling the payment transactions.
5. In the event that Customer is in default with its payment of a material portion of the remuneration due, Rentingforce has the right to block Customer's access to the Software after a reminder in which it threatens to block access until all outstanding and due liabilities have been settled and to temporarily disconnect Customer's website. Any other rights of Rentingforce based on the default in payment remain unaffected.

#### § 7 Claims Based on Defects

1. Rentingforce warrants that the Software and any other services comply with the product and/or service description and are free from any third party propriety rights that prevent or restrain their contractual use. Customer may only assert claims based on defects that are reproducible or can be described by Customer in a comprehensible manner. Functional impairments of the Software that are



caused by Customer's hardware or software environment, corrupted data, improper use or any other circumstances from Customer's sphere of responsibility shall not be deemed to be defects or errors.

2. In the event that a defect or error should occur, Customer shall promptly notify Rentingforce hereof. Rentingforce shall rectify any Software defects or errors for which it receives a proper notice of defect during the term of the Agreement within a reasonable period as part of its maintenance and repair obligations that are included in the usage fee. In the event that the rectification of the error or defect finally fails and if this constitutes a material cause for Customer, Customer has the right to terminate the Agreement for cause without giving prior notice. The Agreement cannot be terminated for insignificant errors or defects. Rentingforce shall pay damages and reimburse wasted expenditures only within the limits of Art. 9.

#### **§ 8 Infringement on Third Party Proprietary Rights**

1. In the event that third parties assert claims against Customer based on an infringement on their proprietary rights due to the use of the Software by Customer, Customer shall promptly notify Rentingforce hereof comprehensively and in written form. Rentingforce has the right, but is not obligated to settle the dispute with the third party on its own, either in court or out of court. In the event that Rentingforce acts upon this authorization, Customer shall reasonably assist Rentingforce free of charge. Customer shall not recognize any third party claims in its own discretion.
2. In the event that the Software has a defect as to title, Rentingforce shall obtain any rights required for the lawful use of the Software on behalf of Customer. Alternatively, Rentingforce has the right to replace the Software in whole or in part with equivalent software, if Customer can be reasonably expected to accept this. In the event that the infringement on third party proprietary rights and/or a legal dispute regarding the corresponding third party rights can be avoided or settled by Customer using a new Software version that is provided by Rentingforce, Customer is obligated to install and use this Software version within the scope of its duty to minimize damage, unless Customer cannot be reasonably expected to replace the Software.
3. Rentingforce shall indemnify and hold Customer harmless from and against any damage caused by infringements on proprietary rights within the liability limitations set forth in Art. 9 to the extent that this damage was caused by a defect as to title for which Rentingforce is liable. In all other regards, the provisions regarding defects as to quality set forth in Art. 7 of these GTC shall apply accordingly to any claims asserted by Customer based on defects as to title.

#### **§ 9 Liability**

1. Contrary to the statutory provisions of section 536a of the German Civil Code (BGB), Rentingforce will only be liable for Software defects that already existed at the contract date if Rentingforce is liable for such defects. In the event that Rentingforce provides services to Customer that are not subject to remuneration, e.g., the provision of the Software during a test period that is not subject to remuneration, Rentingforce will only be liable for the intentional and grossly negligent violation of its duties.
2. In all other cases, Rentingforce shall pay damages or reimburse wasted expenditures, irrespective of the legal cause (e.g., violation of a contractual duty; tort), only to the following extent:
  - in case of intentional wrongdoing and gross negligence for the full amount;
  - in all other cases only for the violation of a contract duty that is of material importance for the attainment of the purpose of the Agreement and upon compliance with the same Customer may therefore rely. Rentingforce is liable for the typical and foreseeable damage, however, limited for each incident and all incidents during one (1) calendar year to ten times the agreed (annual or pro-rated usage fee in the event of a shorter contract term) usage fee, as a minimum, however, an aggregate amount of EUR 25,000.00 for all damage incidents in one calendar year (as a maxim upper limit).
3. In the event of a data loss, Rentingforce will only be liable for damage that would have been suffered if Customer had backed up its data on a regular basis, unless Rentingforce caused the data loss intentionally or in a grossly negligent manner.

4. Liability for personal injury or under the Product Liability Act remains unaffected by the above provisions. Rentingforce reserves the right to raise the defense of contributory fault.

#### **§ 10 Grant of Rights to Use the Software**

1. Rentingforce is the owner of any copyrights and other proprietary rights in and to the Software, including software created or customized by Rentingforce on behalf of Customer and any other customer-specific work results (documentation, forms, etc.) with regard to the contractual relationship between Rentingforce and Customer.
2. Customer is granted a non-exclusive, non-transferrable and non-sublicensable right in and to the Software and any other goods and services provided under this Agreement, limited to the term of the Agreement, to use the same for its business purposes through an agreed number of concurrent users. Customer is authorized to use the Software for the purpose of fleet management (e.g., for yachts, vehicles, etc.); furthermore, the intended use of the Software is governed by the corresponding description of its fields of application on the Rentingforce website.
3. Rentingforce retains any other rights, in particular, the right to reproduce, distribute (in any form), including lease or rental contracts, to process and use the Software on behalf or through third parties.
4. Customer shall not modify or remove any copyright notices of Rentingforce.

#### **§ 11 Confidentiality and Data Protection**

1. The parties agree to treat any business and trade secrets of the other party and any other business information that is clearly confidential that is disclosed to them, made available to them or of which they may become aware in any other manner in strict confidence. They shall use such information only for the purpose specified in the Agreement and shall not disclose it to unauthorized third parties.
2. Rentingforce will process and use personal data of Customer for performing its contractually agreed obligations. Personal data of Customer shall only be transferred to third parties for the purpose of contract performance and processing of payment transactions and, furthermore, only in those cases to which Customer grants its prior consent.
3. In the event that Customer processes third party personal data under the Agreement concluded with Rentingforce (in particular, personal data of its end-users) it will be responsible for compliance with data protection rules and regulations as the responsible authority ("data controller"). Customer shall ensure that the applicable statutory requirements for the transfer to and processing by Rentingforce are complied with, in particular, Customer shall inform its end-users of the handling of their personal data in the appropriate form. To the extent that Rentingforce processes personal data on behalf of Customer, the parties shall enter into an agreement on commissioned data processing ("Vereinbarung zur Auftragsdatenverarbeitung"). Rentingforce has the right to transfer such data to subcontractors for the purpose of contract performance (in particular, to the operator of the external data center that was commissioned).
4. In the event that Customer agrees to be mentioned as a reference customer, Rentingforce has the right to use and reproduce Customer's name and its corporate marks, trademarks and logos in printed publications and on the Rentingforce website for its own advertising purposes.

#### **§ 12 Term and Termination**

1. Depending on the option selected by Customer at the time of ordering, the Agreement will be valid for a term of one (contract) year or one (contract) month. The Agreement will be automatically renewed for another contract term, unless it is terminated by written notice or email by either of the parties giving two (2) week notice prior to the end of the respective contract term. Customer may opt to switch from a monthly to an annual contract term at any time; switching from an annual to a monthly contract term is only permissible at the end of the respective contract term.
2. The right of either party to terminate the Agreement prematurely for cause and without notice remains unaffected. In particular, cause exists for Rentingforce, if insolvency proceedings are instituted against the assets of Customer or rejected for a lack of funds, if Customer is in default with a material portion of the remuneration due for more than four (4) weeks or if Customer violates a material contract duty in any other manner and if it fails to cure this breach within



one (1) week from the corresponding notice given by Rentingforce. The notice of termination must be given in written form or by email.

3. Rentingforce has the right to temporarily suspend Customer's access to the Software in its own discretion when cause exists and to request Customer to cure the breach or to properly perform the Agreement for which a grace period is granted. Any other rights of Rentingforce (in particular, the claim to payment of the agreed remuneration and the right to terminate the Agreement without notice) remain unaffected. In the event that the Agreement is terminated by Rentingforce for cause for which Customer is responsible, Rentingforce will remain entitled to the full remuneration due until the end of the relevant contract term.
4. During a period of 30 (thirty) days following the termination of the Agreement (and at any time during its term) Customer will be able to download and export any data it stored on the hardware made available to Customer (as .csv files, i.e., without logical linking of data). Rentingforce is not obligated to store, archive and/or enable Customer to access its data beyond this period.

#### **§ 13 Final Provisions**

1. Customer is not allowed to assign or transfer any contractual rights or duties to third parties – including any affiliated companies of Customer – unless it has obtained the prior written consent of Rentingforce.
2. Modifications and amendments of the Agreement must be in writing to be effective (fax shall suffice, email is not sufficient). Any waiver of this mandatory written form requirement must be in writing.
3. This Agreement is exclusively governed by German law; the conflict-of-law rules of International Private Law and the UN Convention on the International Sale of Goods are excluded. Venue for all disputes arising out of or in connection with this Agreement shall be the competent court at the business place of Rentingforce. Rentingforce may bring action against Customer before any other national or international court having competence.
4. If any provision of these General Terms and Conditions or an individual contract is or should become invalid or if there are any gaps, the remaining and provisions shall remain in full force and effect. The invalid or missing provision shall be replaced by such a valid provision that most closely reflects the economic and business intention of the parties at the time the Agreement was concluded.

\*\*\*