General Terms and Conditions of Hanseaticsoft GmbH for "Software as a Service"

1. Content and Materialization

1.1. Object. These General Terms and Conditions apply to the making available by **Hanseaticsoft GmbH,** Frankenstrasse 12, 20097 Hamburg, Germany ("**Hanseaticsoft**") of software for use via internet ("Software as a Service") and its related services. The terms and conditions of the relevant quote apply additionally for the making available of the software products referred to therein. In case of a conflict between a provision of these General Terms and Conditions and a provision set forth in the quote, the provision of the quote shall prevail.

1.2. No deviating provisions. Deviating or additional provisions shall only apply if explicitly agreed upon in writing.

1.3. Future transactions. In case of an ongoing business relationship the following provisions shall also apply to future transactions of the parties.

1.4. Effective Date. The agreement comes into effect on the date of the customer's countersignature of a quote provided by Hanseaticsoft ("**Effective Date**").

2. Services of Hanseaticsoft

2.1. Right to use / modules. Subject to the availability stated in the quote and the availability stated in section 2.2 below, Hanseaticsoft makes available for use via internet the software product described in the quote ("**Software**") together with the storage space mentioned in the quote (collectively "**Service**"). The functionalities of the Software are divided into modules. Ordering the basic module is necessary for use of the Service whereas the additional modules (so-called "**Apps**") are optional. The Software shall be operated on the systems of a third party IT provider engaged by Hanseaticsoft. Hanseaticsoft grants to customer a non-exclusive and non-transferable right to use the Software via browser and internet connection for the term of the Service. Such right of use is restricted to business use only. Hanseaticsoft shall provide access to the Service at the IT-provider router's exit. The customer is responsible for an internet connection between the customer and the IT provider, and the required hard- and software (e.g. PC, power supply, browser). The customer's right to use the Service is limited to the number of booked units (e.g. number of vessels managed through the Service). The units are described in the quote. Hanseaticsoft does not render its services to consumers but exclusively to business clients.

2.2. Availability. Unless provided otherwise in the quote, Hanseaticsoft provides availability of the booked Service at the network transfer point connecting to the internet at 99.8 % per calendar month. Should maintenance works require a temporary suspension of the Service, Hanseaticsoft shall endeavour to inform the customer thereof in time.

2.3. Installation. Hanseaticsoft shall perform the initial setup of the Software, including Apps, install the ordered user units, and provide the customer with the relevant access data. The customer is responsible for the further setup of the Service (individual settings or import of data). Hanseaticsoft is not obliged to make any amendments of the Service, especially a reprogramming to meet individual needs of the customer. Such additional services are subject to an additional agreement and fee.

2.4. Support. Hanseaticsoft shall provide a free of charge online support in case of technical problems of the Service. Such support does not include: general training of customer staff, configuration of the Software, import of customer data or customisation of the Software. The support shall be rendered via email or web. Hanseaticsoft is not obliged to render personal or phone support. Online support shall be performed on business days from Mondays to Fridays from 9 a.m. to 4 p.m. CET excluding German public holidays and the 24th and 31st of December. Hanseaticsoft shall provide a first response during such support hours within 4 hours.

2.5. Amendment of Service. Hanseaticsoft may amend the Service (including its system requirements) due to technical or economical changes in the relevant markets or in case of other important reasons, including amendments due to (i) a necessary adaption to new legislation or jurisdiction, (ii) changed technical general conditions (such as new browser versions or technical standards, essential changes of the then used infrastructure and platform services, currently Windows Azure services, see below section 2.6, (iii) protection of the system's security, or (iv) the further development of the Service (shutdown of old functions and appropriate replacement thereof by new functions). Hanseaticsoft will notify the customer in due time via email of changes that may affect customer's interests not only insignificantly (regularly 2 weeks before the change takes place). Customer acceptance of such changes is assumed, unless customer objects in writing or via email within two weeks as of customer's receipt of the notification of such changes. Hanseaticsoft shall explicitly point out this legal consequence when notifying the customer of the changes. In case of customer's objection to the announced changes, both parties have the right to terminate the Agreement subject to a notice period of 2 weeks to the month's end.

2.6. Sub-contractors; Microsoft Windows Azure. Hanseaticsoft is entitled to engage qualified sub-contractors for the provision of the Service. The customer is aware of the fact and agrees that Hanseaticsoft engages Microsoft Ireland Operations Ltd. based in Ireland ("Microsoft Ireland") as a subcontractor for the provision of its Service. Hanseaticsoft uses the infrastructure and platform services of the Windows Azure platform, e.g. for providing server and computing capacities, data storage and databank services (collectively "Windows Azure Services"). Hanseaticsoft uses Windows Azure Services in accordance with Microsoft Ireland's general terms of use (http//www.windowsazure.com/de-de/support/legal) and security measures (http//www.windowsazure.com/en-us/support/trust-center/compliance).

3. Remuneration; Default

3.1. Fee structure.

In consideration of the use of the Service during the term of this Agreement, the customer owes the fees stated in the quote. The fees (for each module) consist of a flat installation fee, a fixed monthly basic fee and / or a monthly user fee depending on the number of booked or used user units.

3.2. Ordering and Cancellation of modules or user units. The number of booked user units or additional modules (including a change to an upgraded service package) may be increased at any time. The customer may reduce the

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number of user units or cancel modules (e.g. downgrade to a lower service package) only as of the date at which the complete Service may be terminated (see section 9).

3.3. Unilateral increase of fees. Hanseaticsoft may amend the fees for the Service in order to compensate for a rise in staff and general costs, but not before expiry of 12 months as of the Effective Date and only once every 12 months. Hanseaticsoft shall inform the customer in writing about such change at least 6 weeks before such change comes into effect. If an increase in fees within one year exceeds 5 %, the customer has the right to terminate this Agreement in writing upon 2 weeks notice to the date the increase comes into effect.

3.4. Payment Terms. The installation fee is due for payment at the Effective Date. The monthly user fees are due for payment on the first day of the Initial Term (as defined in section 9.1) and after that in consecutive monthly intervals in advance (e.g. if first day of Initial Term is January 10th fees are due on January 10th, February 10th, March 10th etc.). If during a month already charged the customer cancels or orders modules or user units, an over- or under-charged amount shall be settled with the following invoice, respectively refunded/charged upon the termination of the Service.

3.5. Net prices. All prices quoted by Hanseaticsoft are exclusive of value-added tax. Value added tax (if any) shall be borne by the customer at the applicable statutory rate.

3.6. Default of payment. If the customer is in default with (i) payment of monthly fees or a not only insignificant part thereof for two consecutive due dates, or (ii), for a period extending over two months, with an amount of at least twice the monthly fees, Hanseaticsoft may, after having given a warning and granting a grace period via email of no avail, either suspend access to the Service or terminate the Service immediately. During the period of suspended Service the customer is not able to access the data stored as part of the Services. Hanseaticsoft's rights under this section do not affect Hanseaticsoft's right to terminate for good reason (*Kündigung aus wichtigem Grund*). In case of termination, section 9.3 applies. In case of default Hanseaticsoft is entitled to charge statutory interest. Hanseaticsoft explicitly reserves the right to claim further damages.

4. Customer obligations

4.1. Data backups. The customer is obliged to regularly export his own data and make security copies or print and retain the relevant data.

4.2. Tax relevant data. The client is obliged to retain all tax relevant data in accordance with statutory law (especially regarding commercial and tax laws). The customer is aware that the Service does not meet the requirements of the German "Guidelines for data access and verifiability of digital documents" (*Grundsätze zum Datenzugriff und zur Prüfbarkeit digitaler Unterlagen, (GDPdU)*).

4.3. Lawful Use. The customer shall use the Service only in accordance with the agreement and the relevant statutory provisions. The customer shall in particular comply with data protection, competition and copyright laws. The customer shall not import damaged or illegal data or misuse the Service in any way.

4.4. System requirements and obligation to cooperate. Requirements regarding customer's hard and software as

well as customer's obligations to cooperate are set forth in the terms and conditions of the quote.

5. Customer Data and Data Protection

5.1. Customer data. The data uploaded by the customer to the Service and the data generated by the customer thereby and attributable to customer ("**Customer Data**") belong to the customer. Hanseaticsoft shall keep customer data confidential.

5.2. Commissioned Data Processing. To the extent that Customer Data contain personal data the following applies: Hanseaticsoft shall process Customer Data as a contract data processor on behalf of and according to the instructions given by the customer and exclusively for the provision of the Service. Hanseaticsoft shall take appropriate technical and organizational measures to protect customer data, respectively engage suitable qualified subcontractors (e.g. for provision of the platform). The customer is responsible for compliance of the collection, processing and use of Customer Data with the relevant statutory provisions, in particular, if applicable, the German Federal Data Protection Act (*Bundesdatenschutzgesetz (BDSG)*). The parties shall conclude a separate agreement on commissioned data processing, if required under the applicable statutory laws.

6. Remedy of defects

The customer shall report any defect of the Service to Hanseaticsoft without undue delay ("**Error Report**"). The Error Report shall contain a detailed and comprehensible specification of type and circumstances of the defects. Hanseaticsoft shall remedy the defects within a reasonable period. If the cause of the defect can only be remedied at disproportionate expenses and the usability of the Service is not significantly affected, Hanseaticsoft is entitled to circumvent the defect by a work around solution.

7. Indemnification

7.1. Obligation to Indemnify. If third parties (including public adminstration) seek claims against Hanseaticsoft based on allegations that the customer has violated contractual or legal duties (i.e. uploading illegal data, violating competition or other laws) the customer shall hold harmless Hanseaticsoft from such claims and any costs incurred by Hanseaticsoft on the grounds of the allegation of claims (including reasonable attorney fees), and reasonably support Hanseaticsoft's legal defence.

7.2. Requirement for the obligation to indemnify. The obligation to indemnify according to section 7.1. is subject to the condition that Hanseaticsoft notifies the customer in writing of such claims, does not make any admission or offer to settle the claim without the customer's consent and grants the customer sole conduct of the defense of any such claim in or out of court at customer's expense.

8. Limitation of Liability

8.1. Exclusion of liability in certain cases. Hanseaticsoft is liable for damages caused

a)   by gross negligence or intent, or

b)   by slight negligence and due to violation of a duty the performance of which is necessary to adequately perform the agreement, and in the performance of which the customer may trust.

In all other cases Hanseaticsoft's liability irrespectively of the legal basis is excluded except for cases of damages due

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to injury to life, body or health of a person, an explicit guarantee, malicious non-disclosure of defects, or claims under the German product liability law ("*Produkthaftungsgesetz*"). Guarantees by Hanseaticsoft are only valid when given in writing and explicitly designated as such.

8.2. **No liability without fault.** A liability without fault for defects that already existed on the Effective Date (Section 536a Subsection 1 Alternative 1 German Civil Code (*"Bürgerliches Gesetzbuch" (BGB)*)) shall be excluded, unless such defect relates to an expressly guaranteed feature or specification, or Hanseaticsoft has maliciously concealed the defect.

8.3. **Limitation of amount.** In case of section 8.1.b) as well as in case of gross negligence of non-executive staff and agents (*einfache Erfüllungsgehilfen*) of Hanseaticsoft (i.e. no organs or executive staff) Hanseaticsoft's liability is limited to the typically foreseeable damages for this type of agreement.

8.4. **Further limitation.** The parties agree that for cases of section 8.3 (i) Hanseaticsoft shall not be liable for indirect damages, consequential damages caused by a defect and lost profits, and (ii) the "typically foreseeable damages" for all damages in one calendar year shall not exceed the net fees payable by the customer to Hanseaticsoft in such calendar year.

8.5. **Employees and Representatives of Hanseaticsoft.** The limitations of liability set forth in sections 8.1 through 8.4 shall also apply to claims against employees and representatives of Hanseaticsoft.

9. **Duration and Termination**

9.1. **Duration.** Unless set forth otherwise in the quote, the following applies to the duration the Service: The initial term of the Service is 24 months as of the date of activation of the Service and provision of the access data to the customer ("**Initial Term**") and shall automatically be extended for 1 month terms ("**Extended Term(s)**"), unless either party terminates the Service upon one month written notice to the end of the Initial Term or Extended Term. This does not affect the statutory right of termination for good reason (*Kündigung aus wichtigem Grund*).

9.2. **Reduction of user units.** For the reduction of user units or the cancellation of individual modules section 3.3 applies.

9.3. **Data at termination of the Agreement.** After termination of the Agreement the customer has no access to the Customer Data. Upon the customer's request, Hanseaticsoft shall provide to customer the Customer Data via CSV file within 72 hours. Hanseaticsoft shall automatically delete all Customer Data completely and permanently 2 weeks after termination of the Agreement or earlier upon customer's request except to the extent that statutory laws require Hanseaticsoft to retain certain Customer Data. Deviating provisions regarding the release of Customer Data (e.g. regarding time, format, documentation or migration) are subject to a separate agreement and fees. This section 9.3 also applies for data stored in a module in case of cancellation of individual modules.

10. **Miscellaneous**

10.1. **Applicable law.** The agreement is subject to German law with the exception of any conflict of laws rules that might lead to the application of the laws of another jurisdiction. UN sales law ("CISG") does not apply.

10.2. **Place of jurisdiction.** The courts of Hamburg, Germany, shall have sole jurisdiction over all legal disputes arising out of or in connection with the agreement. However, Hanseaticsoft is entitled to initiate proceedings at any other statutory place of jurisdiction.

10.3. **Severability.**
Should parts of the Agreement be invalid or become invalid in the future, the other provisions of the agreement will remain in full force. The invalid provision shall be replaced by a valid provision which, if taking account of the purpose of the agreement, comes commercially closest to what the parties would have reasonably agreed. The same applies in case of a contractual gap.