

# Shiftmove General Terms and Conditions

Level of 01.01.2025

These General Terms and Conditions ("GTC") govern the rights and obligations between Shiftmove and the Customer in connection with access to and use of the Shiftmove Products.

## 1. General

### 1.1. Definitions

#### 1.1.1

**"Shiftmove"**, **"We"**, **"Our(s)"** and **"Us"** refers to Shiftmove GmbH with its registered office in Berlin, Germany, and business address at Warschauer Straße 57, 10243 Berlin, Germany, registered in the Commercial Register of the Charlottenburg Local Court under HRB 247276 B, and - where relevant - the companies affiliated with Us within the meaning of Section 15 of the German Stock Corporation Act (Aktiengesetz **"AktG"**).

The affiliated companies of the Shiftmove Group include inter alia

(i) Avrios International AG, Weststrasse 50, 8003 Zurich, Switzerland, commercial register entry number: CHE-480.579.000 at the Commercial Register Zurich, VAT number CHE-480.579.000 VAT (hereinafter: **"Avrios"**)

(ii) Vimcar GmbH, Warschauer Str. 57, 10243 Berlin, Germany, registered in the Commercial Register of the Charlottenburg District Court HRB 154163 B, VAT number: DE292305932 (hereinafter: **"Vimcar"**).

#### 1.1.2

**"Customer"** hereinafter means only entrepreneurs within the meaning of Section 14 of the German Civil Code (Bürgerliches Gesetzbuch **"BGB"**), legal entities under public law and special funds under public law purchasing products from Shiftmove. These GTC shall not apply to contracts with consumers within the meaning of Section 13 BGB. Hereinafter **"You"** may also be used as a synonym for **"Customer"**.

#### 1.1.3

The **"Parties"** shall hereinafter refer to both Shiftmove and the Customer jointly. A **"Party"** refers to Shiftmove or the Customer.

#### 1.1.4

**"Shiftmove Products"** refers to all products offered by Shiftmove. This includes, without limitation, the Avrios Platform, Vimcar Fleet and the Vimcar Driver's Logbook as Software-as-a-Service solutions as well as other services for fleet management offered by Shiftmove.

#### 1.1.5

**"User"** refers to any natural person acting in the name and on behalf of the Customer in the course of their professional activity and who is authorized to use the Shiftmove Products in Page 2 of 14 the name and on behalf of the Customer within the scope of the authorizations granted to them by the Customer.

#### 1.1.6

**"License Agreement"** shall hereinafter refer to the entire agreement between the Parties regarding the use of Shiftmove Products, in particular offers signed by the Customer, individual agreements and these General Terms

and Conditions.

#### **1.1.7**

“Licence” hereinafter refers to the authorized assignment of a Shiftmove Product for use, whereby - in accordance with the provisions of the License Agreement - the number of Users or vehicles for which the respective Shiftmove Product is used determines the number of Licenses required.

### **1.2 Scope of Application and Contractual Partners**

These GTC apply to all orders for and the use of Shiftmove Products,

- which are listed on the Shiftmove website,
- which are offered via an online shop operated by Shiftmove or
- which are offered to the Customer through an individual contractual offer by Shiftmove.

Unless the Parties expressly agree otherwise, the License Agreement for the products listed there shall be concluded exclusively with Shiftmove GmbH.

### **1.3 Applicability of the GTC for Subsequent Orders**

If the Customer orders further Shiftmove Products, the GTC shall apply to their use in the version valid at the time the contract is concluded, unless the Parties have expressly agreed otherwise.

### **1.4 No Inclusion of Third-Party GTC**

The application of the Customer's General Terms and Conditions or Terms and Conditions of Purchase or other provisions deviating from these GTC requires the express consent of Shiftmove. No employee of Shiftmove is authorized to agree to amendments to these GTC unless these have been recorded on a separate order form with precise reference to the provision to be amended.

### **1.5 Reservation of the Right to Amend the GTC**

Amendments to these GTC may be agreed by Shiftmove's offer and the Customer's acceptance in accordance with the following provisions, provided that the amendment does not significantly shift the ratio between performance and consideration to the Customer's disadvantage and the amendment is reasonable for the Customer. Shiftmove's offer shall be made by notification of the changes in text form (“Notification of Change”). If the Customer does not respond to Shiftmove's offer or does not object within six (6) weeks of receipt of the Notification of Change, this shall constitute acceptance of the offer, with which the changes shall become effective. The Customer shall be informed of these consequences separately in the Notification of Change. If the Customer objects in due time, the previous GTC shall continue to apply. Timely dispatch of the notice of objection in text form shall suffice to meet the deadline. In the event of an objection, Shiftmove has the right to terminate the License Agreement prematurely, also taking into account the interests of the Customer, if future performance is technically impossible or economically or legally unreasonable for Shiftmove.

### **1.6 Assignment**

The Customer may only transfer rights arising from the contract concluded with Shiftmove GmbH to third parties with the written consent of Shiftmove. The Customer shall consent to a transfer of the License Agreement by Shiftmove to an affiliated company or to a third party if Shiftmove requests the Customer in text form to consent to such transfer and the same takes place within the framework of a merger, acquisition or reorganization or sale of all or significant parts of the assets of Shiftmove, the performance of the License Agreement is not impaired by such a transfer and the consent is reasonably acceptable for the Customer.

Shiftmove accepts no responsibility for transactions of Shiftmove Products, including, but not limited to, Hardware, between third parties (e.g. via eBay). Shiftmove has the right to commission third parties to fulfil its contractual obligations, provided that Shiftmove remains responsible for the subcontractor's conduct.

## **1.7 Right to Use the Shiftmove Products**

### **1.7.1**

During the term of the License Agreement, Shiftmove grants the Customer a non-exclusive, non-transferable, non-sublicensable, revocable right to access and use the agreed Shiftmove Products in accordance with the provisions of the License Agreement. All intellectual property rights in connection with the Shiftmove Products, including, without limitation, any future general or customized configurations, adaptations, modifications or further developments, even if based on feedback from the Customer or the Users, shall remain with Shiftmove.

### **1.7.2**

The Customer undertakes not to download, copy or modify the code of the Shiftmove Products in whole or in part. The Customer is not permitted to use the trademarks, trade names or logos of Shiftmove GmbH or its affiliated companies. Copyright notices that appear in the Shiftmove Products or in reports generated by the Shiftmove Products may not be deleted or changed.

### **1.7.3**

All rights, including, but not limited to, intellectual property rights to data or documents that the Customer or a User has made available to Shiftmove under the License Agreement or uploaded to the Shiftmove Products (in particular its customer data) shall remain with the Customer.

### **1.7.4**

The contractually granted number of Licenses that the Customer may use is set out in the License Agreement. Should the Customer actually use more Licenses than stated in the Page 4 of 14 License Agreement or otherwise agreed between the Parties, the Customer must notify Shiftmove thereof without undue delay. Shiftmove will then adjust the fees pursuant to Clause 1.9.3 in accordance with the Licenses actually used. If the Customer fails to make the above notification and Shiftmove discovers the use of further Licenses, Shiftmove may adjust the fees in accordance with Clause 1.9.3. A reduction of the fees due to unused Licenses is not possible during the contractual term. Unless expressly agreed otherwise, fees for Licenses not actually used are non-refundable.

## **1.8 Term and Termination**

### **1.8.1**

Unless expressly agreed otherwise by the Parties, the minimum contractual term of the License Agreement is determined by the period of use specified in the order in the web shop, which was accepted through order confirmation, or by the individual offer from Shiftmove, which the Customer has accepted.

### **1.8.2**

The contractual term shall be extended by a further twelve (12) months unless the contract is terminated by the Customer or by Shiftmove at least eight (8) weeks before the end of the contractual term.

### **1.8.3**

The statutory right of both Parties to extraordinary termination for good cause remains unaffected. A good cause that entitles Shiftmove to extraordinary termination of the License Agreement shall exist in particular

- if the Customer is in default of payment of at least two (2) consecutive due invoices from Shiftmove,
- in case of a significant breach of the contractual obligations. In the case of a remediable breach, if this breach is not remedied within thirty (30) days despite a request to do so, or
- if the Customer's financial situation deteriorates significantly after conclusion of the License Agreement and it is likely that the Customer will not be able to fulfil its contractual obligations towards Shiftmove.

Every termination requires to be in text form.

The right to use the Shiftmove Products ends upon termination of the License Agreement. All fees owed in connection with the License Agreement and still outstanding at the time the termination takes effect shall become due for payment immediately.

## **1.9 Conclusion of Contract and Terms of Payment**

### **1.9.1**

The contract between Shiftmove and the Customer is concluded when Shiftmove accepts the Customer's order in the web shop by sending an order confirmation or when the Customer accepts Shiftmove's individual contractual offer or when both Parties sign an offer.

### **1.9.2**

The Customer is obliged to always update its contact details within its customer account, in particular the e-mail address provided for sending invoices. Alternatively, the Customer shall Page 5 of 14 inform Shiftmove of any changes to its contact details by sending an e-mail to [support@shiftmove.com](mailto:support@shiftmove.com). If the Customer has not provided a current e-mail address and as a result the invoice cannot be sent, the Customer shall bear the costs incurred as a result.

### **1.9.3**

The fees for the use of the Shiftmove Products and the fees for any utilization of onboarding services and professional services, which are defined in the respective contract with the Customer, are to be paid annually in advance.

### **1.9.4**

The Customer hereby agrees to the electronic transmission (PDF format) of the invoice by us.

### **1.9.5**

Shiftmove may also agree with the Customer to the provision of other services, such as customer-specific configuration, development and training services or onboarding services, such as employee training or the uploading of customer data to the respective Shiftmove Products. These are generally one-off services that are remunerated separately and are defined in the respective contract with the Customer. If individual configuration or development services are included in the use of the Shiftmove Products by the Customer, Shiftmove shall grant the Customer a non-exclusive, non-transferable right to use the relevant intellectual property rights to the extent necessary for the use of the respective Shiftmove Product during the contractual term.

### **1.9.6**

Shiftmove shall be entitled to adjust the prices and fees (hereinafter also collectively referred to as **"Prices"**) for the contractual services subject to a charge from time to time at its reasonable discretion to an appropriate amount to compensate for the effects of changes in the total costs associated with the provision of the Shiftmove Products, such as, but not limited to, personnel, energy and license costs. Increases in one type of cost (for example: labor costs), will only be used for a price increase to the extent that they are not offset by any reduction in costs in other areas (for example: energy costs). On this basis, We may only increase prices in line with the increase in costs. Shiftmove shall notify the Customer of these price adjustments and the date on which the price adjustment takes effect in text form. The price adjustments shall not apply to periods for which the Customer has already made payments. If the price increase amounts to more than 8% of the previous price, the Customer may object to such price increase with a notice period of two weeks from notification. If the Customer objects to the price adjustment, Shiftmove shall have the right to terminate the License Agreement extraordinarily. A change in the price resulting from a change in the scope of features or the number of Licenses booked shall not be deemed a price adjustment within the meaning of this clause.

### **1.9.7**

If the Customer is in default of payment, Shiftmove shall be entitled, subject to all other rights, to block the Customer's or User's access to the Shiftmove Product in whole or in part or to restrict the scope of services until the amounts due have been paid in full. In this case, the Customer shall remain obliged to continue paying the agreed costs in full. The prerequisite for Page 6 of 14 this is that Shiftmove gives at least ten (10) days' notice and the Customer has not reasonably disputed the respective payment obligation. The Customer may only offset Shiftmove's payment claims against undisputed or legally established claims or claims that are reciprocal to Shiftmove's claims. The Customer shall only have a right of retention in respect of claims arising from the same contractual relationship.

### **1.9.8**

All Our information on fees and Prices is exclusive of taxes (such as VAT), duties or customs duties; these are to be borne in full by the Customer.

### **1.9.9**

Credits in the form of voluntary discounts and value coupons credited to the Customer's account with Shiftmove expire at the end of the contract, have no currency or exchange value and are neither transferable nor refundable.

## **1.10 Liability**

### **1.10.1 Limitation of Liability**

Claims for damages by the Customer arising from injury to life, limb or health as well as for damages based on an intentional or grossly negligent breach of duty by Shiftmove, its legal representatives, affiliated companies or vicarious agents shall be governed by the statutory provisions. In the event of culpable breach of material contractual obligations (so called cardinal obligations), Shiftmove shall only be liable for foreseeable loss typically occurring under the contract. Cardinal obligations shall mean such obligations the fulfilment of which is essential for the proper performance of the contract and on the compliance with which the contractual partner may regularly rely. Otherwise, claims for damages against Shiftmove arising from breach of duty are excluded. The aforementioned limitations shall also apply in favor of the legal representatives and vicarious agents of Shiftmove if claims are asserted directly against them. The provisions of the German Product Liability Act (Produkthaftungsgesetz **"Pro-dHaftG"**) shall remain unaffected. Likewise, the above limitations of liability do not apply to claims for damages arising from the violation of data protection regulations.

### **1.10.2 Force Majeure**

Neither Party shall be liable for failures or delays in the performance of its obligations under the License Agreement due to events beyond the control of the Party concerned, such as denial of service attacks, failure of third parties, such as, but not limited to hosting providers and energy suppliers, strikes, supply bottlenecks, riots, fires, war, terrorism, epidemics, pandemics, government measures or other cases of force majeure for which the Party prevented from performance is not responsible. Agreed performance deadlines and dates shall be postponed by the duration of the hindrance caused by the force majeure event as well as a reasonable ramp-up period. The Party affected by such an event of force majeure shall inform the other Party thereof without undue delay and of the expected duration of the impediment.

### **1.10.3 Responsibility for Technical Faults**

Shiftmove accepts no responsibility for impairments or disruptions to the use of Shiftmove Products that are due to technical faults beyond Shiftmove's control, such as, but not limited to Page 7 of 14 to restrictions, delays or other problems due to failures or faults in data transmission via communication networks and facilities, including the Internet.

### **1.10.4 Links to External Websites**

The Shiftmove Products may contain links that refer to the websites of third-party providers. The activation of such links may result in Users leaving the Shiftmove Products and being redirected to the website of a third-party provider. Unless Shiftmove knew or should have known that the third-party website contains illegal or harmful content, Shiftmove is not liable for the content of such third-party websites and it is the Customer's responsibility to check the terms of use of such websites.

## **1.11 Warranties**

### **1.11.1**

The Customer warrants that it has all necessary consents and authorizations to enter personal data into the Shiftmove Products. Shiftmove shall not be liable for the content of the data provided by the Customer or the User or the manner in which the Customer or User uses the Shiftmove Products to store or process the data.

### **1.11.2**

The Customer and Users shall not use the Shiftmove Products (i) to commit or encourage any criminal offence or infringement, (ii) to store, transmit or distribute viruses or other malware, (iii) to store or distribute data that is malicious or technologically harmful or in breach of the principle of good faith or otherwise unlawful, offensive or obscene, (iv) hack Shiftmove, (v) corrupt data, (vi) disrupt or interfere with other customers or users, (vii) infringe the intellectual property rights of third parties, (viii) send unsolicited advertising or marketing messages, or (ix) attempt to influence the performance or functionality of the Shiftmove Products or other IT systems accessible via the relevant products. The Customer shall ensure that all Users authorized by it comply with the above provision.

### **1.11.3**

Shiftmove shall provide all Shiftmove Products and perform all additional services with reasonable care and in accordance with industry standards and practices.

### **1.11.4**

Shiftmove continuously develops all Shiftmove Products and endeavors to offer all Customers new, innovative functions and services on an ongoing basis. Customers shall always have access to the latest version of the contractually agreed Shiftmove Products. Shiftmove is authorized to update individual components of the

Shiftmove Products from time to time or to modify them in accordance with the following provisions. Changes to the Shiftmove Products that do not affect the functionality of the Shiftmove Product or lead to an improvement of the product and are reasonable for the Customer are permitted at any time. If the modifications result in Shiftmove Products no longer being able to provide essential functions and if these functions are not replaced by equivalent functions, the Customer may demand a (pro rata) Page 8 of 14 refund of the amounts paid for them. In this case, Shiftmove and the Customer have an extraordinary special right of termination in relation to the discontinued function.

#### **1.11.5**

Shiftmove is entitled to evaluate usage data for the purpose of continuously improving the quality of the Shiftmove Products and to provide anonymized benchmarks and key figures.

#### **1.11.6**

Shiftmove reserves the right to interrupt access to the software and the unrestricted use of the Hardware for as long as and insofar as this is necessary for compelling reasons, e.g. in the event of unauthorized attacks on data or computers, to eliminate unforeseen security gaps or other serious faults. In this case, Shiftmove shall inform the Customer without undue delay of the impairment of performance and restore the Customer's ability to use the service immediately after the risk has been eliminated. These temporary restrictions shall not give rise to any liability of Shiftmove or warranty claims of the Customer.

### **1.12 Contact**

Shiftmove uses the contact details provided by the Customer to inform the Customer about its own similar product and service offers by e-mail or other communication channels and to check the Customer's satisfaction with the services used. If the Customer does not wish to receive any further advertising information or to be contacted for other purposes, the use of the contact data for advertising purposes can be stopped at any time with effect for the future.

### **1.13 Confidentiality**

#### **1.13.1**

##### **Confidential Information**

During the cooperation under the License Agreement, one Party ("**Disclosing Party**") may disclose "**Confidential Information**" to the other Party ("**Receiving Party**"); this refers to anything that is reasonably considered confidential given the nature of the information and the circumstances of the disclosure, including non-public business, product, technology and marketing information. Confidential Information includes, in particular, the personal data of the Customer. The marking "confidential" is a clear indication for the Receiving Party that the relevant data or documents are confidential. Notwithstanding the foregoing, Confidential Information shall not include any data or documentation that (i) is or will be generally available to the public without breach of any obligation to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation to the Disclosing Party, (iii) was obtained from a third party without breach of any obligation to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

#### **1.13.2 Disclosure**

If either Party discloses Confidential Information to the other Party, the Receiving Party agrees (i) to keep the Confidential Information secret and confidential, (ii) to use the Confidential Information solely to fulfil its obligations under the License Agreement, and (iii) to disclose the Confidential Information only in accordance



If either Party discloses Confidential Information to the other Party, the Receiving Party agrees (i) to keep the Confidential Information secret and confidential, (ii) to use the Confidential Information solely to fulfil its obligations under the License Agreement, and (iii) to disclose the Confidential Information only in accordance with this section ("Disclosure") or with the written consent of the other Party. A Receiving Party may only disclose Confidential Information to its officers, employees, consultants or subcontractors who need to know the relevant Confidential Page 9 of 14 Information for the purpose of performing its obligations under or in connection with the contract, provided that the Receiving Party ensures that each such person to whom the Confidential Information is disclosed complies with the obligations set out in this section ("Disclosure"). A Receiving Party may also disclose Confidential Information to the minimum extent required (i) by an order of a court of competent jurisdiction or any competent regulatory, judicial, governmental or similar authority or taxing authority or (ii) by the laws or regulations of any country to which the Receiving Party's affairs are subject. The same applies to a disclosure that is permitted under Section 5 of the German Trade Secrets Act (Geschäftsgeheimnisgesetz).

### **1.13.3 Return of Confidential Information**

A Receiving Party shall at all times be obliged to without undue delay destroy or return to the Disclosing Party all Confidential Information or any parts thereof in any form provided to it at the request of the Disclosing Party. This shall not apply to (digital) copies made by the Receiving Party to fulfil its statutory documentation and archiving obligations.

### **1.13.4 Duration of the Confidentiality Obligation**

The obligations of the Parties pursuant to Clause 1.13. shall continue for a period of 3 (three) years from the end of the License Agreement.

## **2. Special Section - Product-Specific Clauses**

### **2.1 Provisions Regarding the Use of the Avrios Platform**

The provisions under Clause 2.1 shall only apply if the Customer uses the Avrios Platform either within the framework of a License Agreement or within the framework of a Free Plan.

#### **2.1.1**

The prerequisite for the use of the Avrios Platform is the availability of an Internet connection with sufficient bandwidth and an Internet browser at the Customer's or the respective User's premises, for which the Customer or User is responsible.

#### **2.1.2**

The prerequisite for using the Avrios Platform is a **"Customer Account"**. A Customer Account can either be created via the self-service portal or Shiftmove can set up a Customer Account for the Customer and provide the Customer with the login information. Users may be persons associated with the Customer's organization or external parties who are authorized by the Customer to access and use the Avrios Platform (hereinafter also referred to as **"Authorized Users"**). The Customer may add or delete Authorized Users in the customer account at any time at its own discretion. Each Authorized User must accept the relevant terms of use (**"Terms of Use"**) when registering for the first time. Shiftmove reserves the right to change or update the Terms of Use at any time at its own discretion, provided that these changes do not unreasonably restrict the function of the Avrios Platform or the Customer's rights under the License Agreement. In the event of material changes, Shiftmove will ask all Authorized Users to reaccept the updated Terms of Use. It is the Customer's responsibility to ensure that its Page 10 of 14 Authorized Users comply with the provisions of the Terms of Use and that their access data is stored securely and updated regularly.



### 2.1.3

Shiftmove provides a basic version of the Avrios Platform free of charge ("**Free Plan**"). Shiftmove reserves the right to change the scope and specification of the Free Plan at any time and at its own discretion and to terminate the Free Plan at any time with reasonable notice to the Customer. The Customer may terminate access to the Free Plan at any time and close its Customer Account by notifying Shiftmove in accordance with the contract. Even when switching from a fee-based License Agreement to a Free Plan, outstanding payment obligations from the License Agreement shall remain effective and the change is only possible at the end of the respective subscription period agreed in the License Agreement.

### 2.1.4

Online and virtual support resources are available to all Authorized Users free of charge. Additional support services via chat, e-mail or telephone support as well as individual onboarding services can only be utilized within the framework of a fee-based License Agreement and in accordance with the provisions and service specifications of the respective contract.

### 2.1.5

Customers may download data from the Avrios Platform at any time during the term of the License Agreement. Upon termination of the License Agreement, Shiftmove shall grant the Customer limited access to the Avrios Platform for a reasonable period of time and subject to the terms of the License Agreement to enable the Customer to continue to download its Customer Data from the Avrios Platform after the end of the License Agreement. This requires that the Customer sends Shiftmove a corresponding request within fifteen (15) days of the termination of the License Agreement. Shiftmove shall have no further obligations to support the Customer in downloading the Customer Data or to export Customer Data on the Customer's behalf. Thirty (30) days after the end of the contract, all Customer Data shall be deleted from the Avrios Platform in accordance with the internal guidelines for data archiving and the applicable data protection regulations.

### 2.1.6

The Avrios Platform also provides the Customer with a repair service feature. When using this feature, Shiftmove acts exclusively as an intermediary for the respective service providers (e.g. workshops). The Customer concludes a separate contract with the service provider. Shiftmove assumes no liability for the proper provision of the service. The scope of Shiftmove's services consists solely of brokering the service provider. The services of the service provider are invoiced solely by the service provider.

### 2.1.7

In order to use the drivers' license check feature, all drivers designated by the Customer for this purpose require a smartphone with an autofocus camera and an email address or mobile phone number. The use of the compliance tool requires that each driver has access to a computer with an Internet connection.

## 2.2 Provisions Regarding the Use of the Vimcar Logbook and Vimcar Fleet

The provisions under Clause 2.2 shall only apply if the Customer uses the Vimcar Driver's Logbook or Vimcar Fleet (Fleet Driver's Logbook and/or Fleet Geo) (hereinafter also: "**Vimcar Products**") either in the framework of a License Agreement or of a test phase. Shiftmove only sells the Vimcar Products itself or via licensed dealers. If a Vimcar Product is purchased via Page 11 of 14 licensed retailers, such as, but not limited to, electronics stores, software shops or car dealers, these GTC shall only apply insofar as the use of the software and the provision of the Hardware is concerned. Otherwise, the terms and conditions of the respective retailer shall apply.

A prerequisite for the use of Vimcar Products is the availability of an Internet connection with sufficient bandwidth and an Internet browser at the Customer's or the respective User's premises, for which the Customer or User is responsible.

## 2.2.1 Hardware

### 2.2.1.1

Vimcar Driver's Logbook and Vimcar Fleet consist of a Vimcar OBD plug, which is provided to the Customer on a rental basis and, if required, an extension cable for connecting the OBD plug, or a Vimcar GPS tracking unit "Vimcar Box" (both hereinafter: "**Hardware**") and the Vimcar software, available for iOS, Android, and as a web version for drivers (<http://app.vimcar.com>) and fleet managers (<http://fleet.vimcar.com>), provided that Vimcar Fleet has also been booked. Shiftmove shall make the software available to the Customer on a rental basis (Clause 1.7). In individual cases, a use without Hardware may be possible. In this case, the provisions of these GTC concerning Hardware shall not apply.

### 2.2.1.2

The Hardware shall be dispatched by regular mail. Shiftmove bears the shipping risk. Upon receipt, the Customer must check the Hardware for defects and notify Shiftmove without undue delay of any defects. If the Customer fails to notify Shiftmove, the goods shall be deemed to have been approved, unless the defect was not recognizable during the inspection.

### 2.2.1.3

The Vimcar OBD plug provided on a rental basis is plugged into the vehicle's diagnostic port (usually located in the foot space). This technology enables access to data directly from the vehicle, which favors the keeping of a complete logbook (as long as the plug is in the diagnostic port). A GPS module is installed in the Vimcar OBD connector to determine the position. The Vimcar OBD connector also contains a SIM card for data transmission. The same must not be removed from the Vimcar OBD connector and may only be used in connection with the Vimcar Product. The telecommunication service in connection with the use of the OBD connector incl. SIM card is provided by 1NCE GmbH, Sternengasse 14-16, 50667 Cologne, Germany (Commercial Register: Cologne Local Court HRB 92529) or Munic S.A., 100 Avenue de Stalingrad, 94800 Villejuif, France (Siren number: 442484556). The rented Vimcar Box is attached to the jump starter. This technology allows the use of Vimcar without the use of OBD data. A GPS module is installed in the Vimcar Box to determine its position. The Vimcar Box also contains a SIM card for data transmission. Shiftmove is not responsible for installing the Hardware. The Hardware described above is certified with the E-certificate required by the German Federal Motor Transport Authority (Kraftfahrtbundesamt), which is valid throughout Europe, so that its use does not affect the registration of the vehicle. The Customer is responsible for installing the Hardware. In case of uncertainties with the technical handling, it is recommended to consult a specialized workshop. The Customer must clarify before ordering independently with the manufacturer of his or her vehicle whether the installation of the Hardware may affect the respective manufacturer's warranty.

### 2.2.1.4

The Customer must check the compatibility of the Hardware and the vehicle using the data provided on the Vimcar website (<https://vimcar.de/support/bestellung>) before ordering. Page 12 of 14 Shiftmove expressly points out that, despite the greatest possible care, not all questions of compatibility can be clarified by Shiftmove before the order is placed. This is due, among other things, to the large number of different vehicle models, individual equipment and manufacturers. Shiftmove only guarantees the compatibility of the Hardware if Shiftmove has expressly informed the Customer thereof in text form. Otherwise, Shiftmove accepts no liability for errors and/or damage caused by a lack of compatibility. Immediately upon receipt of the Hardware, the Customer shall check the compatibility with its vehicle and test the functionality of the respective Vimcar Product and inform Shiftmove immediately of any recognizable errors and/or malfunctions. The Customer shall ensure that the respective User cooperates as required.

#### **2.2.1.5**

The User will receive any software updates, including the firmware on the Hardware, which may be necessary for the proper operation of the software. The User undertakes to operate the Hardware exclusively with the firmware provided by Shiftmove. Maintenance and repair work on the Hardware provided may only be carried out by Shiftmove. Maintenance by the Customer, User or a third party not authorized by Shiftmove may lead to irreversible damage to the Hardware. In this case, the Customer shall be charged the amount specified in Clause 2.2.1.8. Shiftmove is authorized to carry out configurations and firmware updates on the Hardware via remote maintenance.

#### **2.2.1.6**

After termination of the contractual relationship, the Customer must immediately return the Hardware to Shiftmove GmbH, Warschauer Str. 57, 10243 Berlin, Germany, at its own expense. Hardware that has not been received by Shiftmove within fourteen (14) days of the end of the contract will be charged to the Customer in the amount of 119 Euros (excl. VAT), unless the Customer can provide proof of delivery from the shipping service provider commissioned by the Customer. The Customer reserves the right to prove that Shiftmove has incurred no or significantly less damage. The shipping risk of the return shipment and the responsibility for proper packaging shall be borne by the Customer.

#### **2.2.1.7**

Shiftmove shall bear the costs of any replacement or repair of the Hardware for the entire term of the License Agreement, provided that the faults occurred during proper use. If the Customer complains about a Hardware fault, Shiftmove shall check the functionality thereof. If there are indications that the Hardware is defective, replacement Hardware will be sent to the Customer or the respective User at Shiftmove's expense. If the Hardware is functional when it is sent for inspection or if the fault is attributable to the Customer or the User, Shiftmove is entitled to charge the Customer for the costs incurred by the inspection/repair on a time-spent and material costs basis. Shiftmove is authorized to replace the Hardware provided to the Customer with at least equivalent Hardware if technical or operational reasons make this necessary. A functional impairment of the software is not a defect if it results from defects in the Customer's or User's own hardware, from environmental conditions, incorrect operation or comparable circumstances that are beyond Shiftmove's control.

#### **2.2.1.8**

The Hardware or other end devices provided to the Customer shall remain the property of Shiftmove and must be returned to Shiftmove at the end of the contract in accordance with Clause 2.2.1.6. The Hardware must be treated with due care during the period of use. The Customer shall be liable for any damage to the Hardware caused by the Customer or its Page 13 of 14 vicarious agents during their possession. In the event of loss or irreversible damage to the Hardware, the Customer will be charged the value of the Hardware. The value of the OBD connector is 119 Euros (excl. VAT). The value of the Vimcar Box is 119 Euros (excl. VAT). Irreversible damage is also damage that is not economical to repair. The Customer has the right to prove that the damage is lower.

### **2.2.2 Creation of a Customer Account**

To use the Vimcar Products, the Customer requires an account, which is created on the website individually communicated to the Customer, unless such an account was exceptionally created for the Customer by Shiftmove. The Customer or User downloads the Vimcar App or the Vimcar Fleet App from the relevant "app stores" (iOS, Android) independently onto the end device or may alternatively use the web versions (<http://app.vimcar.com> or <http://fleet.vimcar.com>). If the Customer has purchased the Hardware in a retail store, this paragraph does not apply.

### **2.2.3 The Vimcar Logbook**

#### **2.2.3.1**

The Vimcar Logbook is an electronic logbook for documenting journeys made with a commercially registered car.

#### **2.2.3.2**

The Vimcar Logbook is based on the legal regulations of the tax authorities of the Federal Republic of Germany on digital logbooks. Shiftmove declares to the best of its knowledge that the current version of the program meets the technical requirements for keeping a proper digital logbook and that future updates will also meet the requirements. The auditing firm KPMG has verified that the Vimcar Logbook meets the IT regularity requirements for digital logbooks in all essential areas, provided that the trip recordings are carried out properly in accordance with the BMF letter dated 18 November 2009, BStBl. I 2009, p. 1326, ref. IV C 6 - S 2177/07/10004, amended by BMF letter dated 15 November 2012, BStBl. I 2012, p. 1099. The complete test report is available here: <https://vimcar.de/kpmg>.

#### **2.2.3.3**

Shiftmove points out that it is currently not possible to have electronic logbooks certified by the tax authorities or to obtain official authorization for electronic logbooks from the tax authorities. The examination of whether an electronic logbook is to be recognized as proper is only carried out on a case-by-case basis. The Customer therefore undertakes to follow the instructions for use in the logbook and not to violate any laws or other legal provisions in connection with the use of the Vimcar Logbook.

#### **2.2.3.4**

If there is a need for subsequent adjustment of the logbook, the Customer may make changes to the logbook itself up to seven days after the respective journey. Furthermore, the Customer may only request an adjustment to the logbook by customer service up to seven days after the journey (cut-off period). It is the Customer's responsibility to check the plausibility of the recorded journeys promptly and within the specified period (7-day period) and to process (categorize) them. If there are technical discrepancies in the recording of journeys, it is the Page 14 of 14 responsibility of the Customer to cooperate immediately and fully in rectifying them. Shiftmove reserves the right to reject requests in relation to journeys older than 90 days.

#### **2.2.3.5**

According to the current legal situation, for the electronic logbook to be recognized by the tax authorities, the Customer must manually enter the mileage according to the odometer in the vehicle in the logbook at least twice a year. The Customer undertakes to enter this information and will be notified of this in the Vimcar app/web application.

### **2.2.4 Vimcar Fleet Geo**

Vimcar Fleet Geo offers the Customer real-time localization and route documentation as part of a company's internal fleet management. Whether and how the aforementioned functions may be used by the respective Customer is subject to the Customer's individual assessment.

### **2.2.5 Right of withdrawal**

The Customer has the right to withdraw from the contract for the use of Vimcar Products within thirty (30) days. The withdrawal period shall be thirty (30) days from the day on which the Customer – or a third party designated by the Customer, who is not the carrier – has taken possession of the goods. If the Customer is an entrepreneur according to §14 civil code (BGB), the right of withdrawal only applies to the first order of Vimcar products. To exercise the right of withdrawal, the Customer must inform Shiftmove (Shiftmove GmbH, Warschauer Str. 57,

10243 Berlin, E-Mail: [contact@shiftmove.com](mailto:contact@shiftmove.com)) of the decision to withdraw from the contract by an unequivocal statement (e.g. a letter sent by post or e-mail). The example withdrawal form below can be used for this purpose, but is not mandatory. If the customer withdraws from the contract, Shiftmove shall reimburse the customer for all payments Shiftmove has received from the customer, including delivery costs (with the exception of additional costs resulting from the customer choosing a type of delivery other than the cheapest standard delivery offered by Shiftmove), immediately – and at the latest, within fourteen days – from the day on which Shiftmove receives notification of the withdrawal from the contract. For this repayment, Shiftmove shall use the same means of payment that was used for the original transaction, unless expressly agreed otherwise with the customer. The customer must return or hand over the goods to Shiftmove immediately, and in any case, within fourteen days at the latest from the day on which they informed Shiftmove of the revocation of the contract. The deadline shall be deemed to have been met if the customer sends the goods before the expiry of the fourteen-day period. The customer shall bear the direct costs of returning the goods. The customer shall only be liable for any loss in value of the goods if this loss in value is due to handling of the goods that is not necessary for checking their condition, properties and functionality.

### **SAMPLE - WITHDRAWAL FORM**

To:  
Shiftmove GmbH  
Warschauer Str. 57  
10243 Berlin  
[contact@shiftmove.com](mailto:contact@shiftmove.com)

### **WITHDRAWAL**

**I/we hereby revoke the contract concluded by me/us for the order of the following products/the provision of the following services**

**-Ordered on/received on (\*) - Customer's name - Customer's address - Customer's signature  
Customer's signature (only for notification on paper) - Date**

### **3. Data Processing**

By accepting these GTC, the Customer authorizes Shiftmove to process its personal data. The agreement for order processing available under <https://www.shiftmove.com/legal/dpa> is part of this contract. It is the responsibility of the Customer to document the contract for order processing appropriately for its own purposes. Shiftmove undertakes to comply with all statutory data protection requirements.

### **4. Survival of Rights and Obligations**

Provisions of the License Agreement which by their nature are intended to survive the termination of the License Agreement shall survive the termination or expiry of the License Agreement, including, but not limited to, the sections "Confidentiality", "Conclusion of Contract and Terms of Payment", "General Provisions Regarding the Use of the Vimcar Logbook and Vimcar Fleet", "Hardware" and "Liability".

### **5. Applicable Law and Place of Jurisdiction**

The law of the Federal Republic of Germany shall apply. The exclusive place of jurisdiction for all disputes in connection with the License Agreement is the registered office of Shiftmove. Shiftmove shall also be entitled to assert claims at the Customer's general place of jurisdiction.