

The following terms and conditions govern the use of the platform (see below) by pilots.

**Please read the terms and conditions carefully. Your knowledge and acceptance is a prerequisite for the use of the platform.**

The terms and conditions can be saved and printed via the browser.

## **1. Scope**

For the business relationship between us, FairFleet GmbH, Ganghoferstr. 68b, 80339 Munich, registered at the District Court Munich, HRB 239862, VAT ID number. DE (not provided yet), represented by the Managing Directors Alexander Engelfried, Dario Manns, Marco Kreuzer and Florian Waubke ("**FairFleet**"), and you ("**pilot**"), only these terms and conditions apply. Other general terms and conditions of the pilot are not recognized. This also applies if FairFleet does not expressly oppose the inclusion.

## **2. Use of the platform**

### **2.1 Description**

2.1.1 FairFleet operates the website [www.FairFleet360.com](http://www.FairFleet360.com) (the "**website**") and any associated mobile apps ("**apps**"; website and apps collectively hereafter the "**platform**"). Using the platform, FairFleet customers can engage in the creation and, where applicable, the editing of videos and/or photographs ("**aerial photographs**") by drones from non-public areas, such as non-public real estate projects.

2.1.2 FairFleet does not fly the drones itself, but instead hires independent, professional drone pilots.

2.1.3 Using aerial photography, FairFleet will edit the aerial photographs at the customer's request, according to the customer's requirements. "Editing" here means that FairFleet, with special software, uses aerial photography to create orthographic views and data sets, so-called "orthophotos", or carries out other editing work requested by the customer.

2.1.4 After the aerial photographs have been uploaded onto the platform or, if editing was also required, the customer is informed of the processing of the aerial photographs and can then download the (possibly edited) aerial photographs from the platform for free use.

## **2.2 Entering into the user agreement**

2.2.1 By using the platform, the pilot concludes a user agreement with FairFleet, on the basis of these terms and conditions (the "**user agreement**"). A claim for the conclusion of a user agreement does not exist.

2.2.2 The conclusion of the user agreement presupposes that the pilot is an entrepreneur, i.e. he/she acts on behalf of his/her commercial or independent professional activity (§ 14 para. 1 BGB). He/she must, therefore, in the course of the tender (paragraph 2.2.4 ), also specify his/her VAT ID.

2.2.3 The user agreement is concluded through offer and acceptance in two stages, as follows:

2.2.4 The pilot enters the registration data that is to be given to FairFleet into the form provided on the platform and, by clicking on the corresponding fields in the form, agrees to the validity of these terms and conditions and to the data privacy policy. By clicking on the corresponding button in the form, the pilot then submits his/her offer to conclude a restricted (see para 2.2.6) user agreement for the platform. The pilot remains bound to the offer until receipt of acceptance by FairFleet according to section 2.2.5, but for no longer than two weeks from submitting the offer.

2.2.5 FairFleet will immediately notify the pilot by email of the receipt of his/her offer and will use this information email to send these terms and conditions and the data privacy policy. This informational email does not constitute acceptance of the pilot's offer. Rather, the user agreement is finalized only with a separate acceptance email from FairFleet. FairFleet may also state its acceptance in another way, e.g. by activating the platform surface (see below 2.2.6).

- 2.2.6 Upon acceptance of the pilot's offer, the limited user agreement has been established and the pilot has limited access to the platform. In particular, the limited user agreement does not enable the pilot to submit offers for the conclusion of aerial photography contracts (para 3.3).
- 2.2.7 To be able to submit offers for the conclusion of aerial photography contracts (para 3.3), the pilot must first complete an unrestricted user agreement for the FairFleet platform. The contract is concluded after an offer from the pilot and acceptance by FairFleet, as follows:
- 2.2.8 The offer is submitted by the pilot by uploading the required documents using the form in the platform. The documents should, in particular, prove that the pilot is entitled to carry out commercial drone flights to take aerial photographs. If the pilot wants to become active in Germany, he/she needs in particular an 'Aufstiegserlaubnis' (rise permit) in accordance with § 20 exp. 1 no. 7 LuftVO, for the respective federal state. FairFleet may request additional documents from the pilot which FairFleet deems necessary to verify his/her eligibility pursuant to p.1 (for example, the required insurance policy pursuant to para 3.5.1 ). FairFleet is entitled, in cases of doubt, to request the sending of these documents by post for examination purposes.
- 2.2.9 FairFleet will inform the pilot promptly of the receipt of his/her offer by email. Clause 2.2.5 applies accordingly.
- 2.2.10 The pilot must enter the registration data truthfully and completely.
- 2.2.11 If the pilot is a natural person then he/she must, when submitting his/her offer according to paragraph 2.2.4 or. 2.2.8, have reached the necessary minimum age of his/her country of residence, but must be at least 18 years of age.
- 2.2.12 If the customer is a legal entity then the offer, in accordance with paragraph 2.2.4 or. 2.2.8, may only be carried out by an authorized number of natural persons, who must be named.
- 2.3 Usage, rights of use, termination, no circumvention**

- 2.3.1 The following regulations apply to both the restricted (para 2.2.6) and the unrestricted (paragraph 2.2.7) contracts of use.
- 2.3.2 The pilot owes FairFleet no compensation for using the platform.
- 2.3.3 The pilot must keep his/her registration data up-to-date at all times. He/she can edit his/her profile on the platform.
- 2.3.4 The pilot must keep his/her login data to the platform secret, especially his/her password. He/she is obliged to inform FairFleet immediately if he/she has evidence of misuse of his/her login data.
- 2.3.5 The pilot is aware that an internet platform such as this one is a dynamic offering and FairFleet must be able to adapt the services offered by the platform at any time. FairFleet is therefore entitled to change the services provided via the platform, particularly if it is required to for legal, commercial or objective reasons.
- 2.3.6 FairFleet endeavors to maintain the platform's availability without interruptions and to transmit data without errors. However, due to the nature of the internet, FairFleet cannot guarantee unlimited access to the platform at all times. For technical reasons (e.g. maintenance work) or due to force majeure (e.g. power failure), this access may be interrupted or restricted temporarily and without notice.
- 2.3.7 The pilot is prohibited from posting content on the platform that violates legal regulations. It is clarified that this also includes the relevant legal regulations of his/her country of residence that is not Germany.
- 2.3.8 Furthermore, he/she is prohibited from posting content that violates the rights of third parties, in particular copyrights, trademarks or personal rights. FairFleet reserves the right to immediately suspend such content as soon as it becomes known to FairFleet.
- 2.3.9 The pilot must ensure that the information and data he/she has posted on the platform is not affected by viruses, worms or Trojan horses.

2.3.10 The pilot indemnifies FairFleet from all claims which a third party may assert against FairFleet from the items listed in paragraphs 2.3.4 to 2.3.9.

2.3.11 For content uploaded to the platform by the pilot, such as texts, photographs or graphics, the pilot grants FairFleet, at the time of upload to the platform, a simple, temporally and geographically unlimited, transferable and sub-licensable free-of-charge right to use for the purposes of the platform, in particular

- for duplication and distribution using digital storage and playback media, regardless of the technical equipment and including all digital and interactive systems, and for reception by stationary and mobile terminals, regardless of the transmission path and transmission method;
- for storage and retrieval in electronic databases, including those in search engines, and electronic data networks, no matter what storage and transmission technology is used;

regardless of the purpose of use, in particular for marketing purposes by FairFleet.

The transferred rights of use also include the right to edit the contents, particularly in such a way that they can be displayed on mobile devices (e.g. smartphones and tablets) as appropriate.

2.3.12 It is pointed out that FairFleet grants the pilot no rights of use for protected works and other intellectual property rights of the platform. For example, the user agreement does not entitle the pilot to use any photographs or trademarks displayed on the platform.

2.3.13 The user agreement is concluded for an indefinite period. It may be terminated by either party at any time, even without good cause. It is pointed out that aerial photography contracts (para 3) concluded prior to the termination of this user agreement are still implemented in accordance with these terms and conditions. It is also clarified that the conclusion of the license agreement does not oblige the pilot to enter into aerial photography contracts (para 3) with FairFleet.

2.3.14 Termination must be in writing (e.g. fax) to be effective. Email is sufficient.

2.3.15 The pilot must not circumvent the platform, such as by attempting to directly enter into additional agreements or aerial photography contracts with customers registered on the platform.

2.3.16 The pilot is required to promptly notify FairFleet of any change in his/her authority to operate commercial drone flights. If he/she loses this right, he/she may no longer place offers. Refer to clause 3.3.5.

## **2.4 Blocking / resetting to a limited usage contract**

2.4.1 FairFleet is entitled to block the pilot's profile and access to the platform if and for as long as there is indication that the pilot is failing to meet his/her obligations according to this agreement.

2.4.2 FairFleet is further entitled, for a reasonable period to be determined by FairFleet, to adjust its services to the level of the limited user agreement (see para 2.2.6) if FairFleet determines that the pilot has breached essential obligations of the terms and conditions. Essential obligations are, in particular, those which are likely to shake FairFleet's confidence as to the integrity of the pilot (e.g. breach of circumvention ban, paragraph 2.3.15) as well as safety-relevant obligations (e.g. obligation to maintain liability insurance, para 3.5.1).

## **3. Aerial photography contract**

### **3.1 General**

3.1.1 The pilot works as an independent entrepreneur. As part of the aerial photography contract, he/she freely determines his/her activity and his/her business hours and procures for him/herself the necessary resources.

3.1.2 The pilot is not prevented in any way from also acting on behalf of third parties.

### **3.2 Contract**

Covered in the aerial photography contract is the pilot's compilation of aerial photography using drone flights in certain non-public areas designated by FairFleet.

### **3.3 Conclusion of aerial photography contract**

- 3.3.1 The offers on the platform are not binding.
- 3.3.2 The contract regarding conducting a drone flight to take aerial photographs (the "**aerial photography contract**") is concluded after offer and acceptance in accordance with the following paragraphs 3.3.3 ff..
- 3.3.3 The pilot can see requests for taking aerial photographs on an interface on the platform that is accessible to him/her, the so-called "cockpit". These requests are based on corresponding customer requests to FairFleet. The inquiries received do not yet constitute an offer by FairFleet to the pilot for the conclusion of an aerial photography contract, but merely an "invitatio ad offerendum", with which FairFleet merely signals its willingness in principle to enter into an aerial photography contract with the pilot.
- 3.3.4 The pilot may, for one or several of these requests, submit an offer to FairFleet for the completion of an aerial photography contract, i.e. he can declare via the platform, at which net price he is willing to produce the requested aerial photographs or, in the case of a fixed price request, that he is prepared to create the requested aerial photographs at the requested fixed price. The pilot is bound to his/her offer for 30 days afterwards.
- 3.3.5 The pilot may submit offers according to clause 3.3.4 only if he meets all the legal and official requirements necessary for the drone flight. In particular, the pilot is not entitled to submit an offer if, at the time of the planned offer submission, he/she no longer has the required rise permit (cf. 2.2.8 ).
- 3.3.6 FairFleet will promptly notify the pilot of the receipt of his/her offer by email and, with this information email, will send him/her these terms and conditions and data privacy policy. This informational e-

mail does not constitute acceptance of the pilot's offer. Rather, the aerial photography contract with FairFleet is secured only with a separate acceptance email from FairFleet. FairFleet can also convey its acceptance in other ways.

- 3.3.7 By FairFleet declaring the acceptance of the pilot's offer, the aerial photography contract between the parties is concluded.
- 3.3.8 Any further consultation between the parties - for example, the agreement of appointments for site visits – which is necessary to carry out the drone flight to create the aerial photographs, shall not prevent the conclusion of the contract; § 154 para. 1 BGB is excluded.
- 3.3.9 Clauses 2.2.10 to 2.2.12 valid accordingly also for the conclusion of the aerial photography contract.

#### **3.4 Execution deadlines**

- 3.4.1 If the pilot is guilty of not meeting agreed deadlines, he/she is liable to pay FairFleet for the damages resulting therefrom.
- 3.4.2 FairFleet reserves the right to change agreed appointments. FairFleet will inform the pilot well in advance.

#### **3.5 Duties of the pilot**

- 3.5.1 The pilot is obliged to maintain the insurance required for carrying out commercial drone flights, particularly liability insurance. The liability insurance must, where available, have the legal minimum coverage, but must have a coverage of at least €1,000,000. Without such insurance, he/she may not submit offers or perform drone flights.
- 3.5.2 During the execution of the drone flight, the pilot is required to take aerial photographs that comply with relevant laws, in particular data and personal rights protection laws, aviation laws, other public laws (e.g. concerning necessary special use permits) and criminal laws (in Germany, for example, § 109g para StGB) and to comply with any official requirements, as well as all applicable guidelines and codes in accordance with its authorization to carry out commercial drone



flights. While FairFleet voluntarily offers assistance on the platform - such as access to services that show no-fly zones - this does not relieve the pilot of his/her aforementioned obligations.

3.5.3 The pilot is obliged to upload the created aerial photographs to the platform immediately after completing the drone flight.

3.5.4 The pilot is obliged to completely and permanently delete the aerial photographs two weeks after uploading them.

3.5.5 Note: The pilot is not entitled to use the name of the customer, on whose request the aerial photography agreement with FairFleet is based (see para 3.3.3 ), as a reference.

### **3.6 Usage rights**

3.6.1 The pilot grants FairFleet, for the uploading of aerial photographs (numeral 3.5.3 ) to the same (hereafter the "**work**"), an exclusive; unlimited in time, place and content; transferable; and sub-licensable right of use. This right of use includes in particular the right

- to duplicate and distribute, in particular
  - o in printed form and printed publications of any kind,
  - o using digital storage and playback media, regardless of the technical equipment and including all digital and interactive systems, in particular for reception by stationary and/or mobile devices, regardless of the transmission path and transmission method,
- to grant public access and on-demand provision, i.e. the right to save the work, to make it available to the public, to broadcast to one or more requesting parties, in all analogue or digital electronic databases, electronic data networks and telecommunication services networks,
- to store in electronic databases, including those in search engines, and electronic data networks, using any storage and transmission technology,

- to public reproduction, i.e. the right to publicly reproduce the work commercially or non-commercially, by sound carriers, image carriers, audiovisual carriers, multimedia carriers or other data carriers, such as magnetic tapes, magnetic tape cassettes, optical disks, chips, in all formats, using all analogue and digital reproduction procedures and techniques;

regardless of the purpose of the use and, in particular, also for the customer's advertising and marketing purposes.

- 3.6.2 Also included is the right to edit the work, especially in such a way that it can be displayed on mobile devices (smartphones, tablets, etc.) in a suitable manner.
- 3.6.3 The granting of rights also includes partial use of the works and use in conjunction with other works.
- 3.6.4 It is clarified that the pilot is not entitled to use the aerial photographs as a reference, i.e. for self-promotion purposes.

### **3.7 Acceptance**

If FairFleet, within two weeks after the aerial photos have been uploaded to the platform (para 3.5.3 ), does not issue a declaration of acceptance to the pilot, the acceptance is considered as declared.

### **3.8 Compensation, payment methods**

- 3.8.1 The agreed compensation is due, irrespective of § 641 Abs. 2 BGB, with acceptance (Par **Error! Reference source not found.** ).

### **3.9 Termination**

If FairFleet terminates the aerial photography contract because the customer provides a reason for the continuation of the corresponding contract between FairFleet and its customer being no longer reasonable for FairFleet, then the pilot is only entitled to claim payment for work not carried out if FairFleet receives compensation from the customer for the pilot performing these services.

### **3.10 Compensation, Retention**

The pilot is only entitled to compensation, retention and objection to an unfulfilled contract if the counterclaims are legally established, recognized or undisputed.

### **3.11 Confidentiality**

The pilot undertakes to keep confidential all commercial information communicated by FairFleet and disclosed to him. The obligation to secrecy does not apply to information which the pilot has demonstrably been aware of prior to being told by FairFleet, which the pilot has lawfully received from or receives from third parties that are widely known or that become widely known without breach of the non-disclosure agreement.

## **4. General**

### **4.1 Applicable law, place of jurisdiction**

4.1.1 These terms and conditions and the business relationship between FairFleet and the pilot are governed by German law, excluding the United Nations Convention on Contracts for the International Sale of Goods.

4.1.2 If the pilot is a businessman, as referred to in Section 1 (1) HGB, or if he/she has no general place of jurisdiction in the Federal Republic of Germany, the district court at FairFleet's location is exclusively responsible for all disputes arising from the business relationship with the pilot.

### **4.2 Contract language**

The user agreement for the platform (para 2.2) and the aerial photography contract (para 3 ) are concluded in German.

### **4.3 Liability**

4.3.1 When it comes to fault, FairFleet is liable to the pilot in case of intent and gross negligence. In case of ordinary negligence FairFleet is only liable

a) for damage resulting from injury to life, body or health,

b) for damages resulting from a breach of a material contractual obligation (the fulfillment of which obligation enables the proper execution of the contract in the first place and the compliance of which the contractual partner regularly relies and may rely on); however, liability in this case is limited to compensation for foreseeable, typically occurring damage.

4.3.2 FairFleet is liable for the loss of data in accordance with paragraph 4.3.1 only if such a loss could not have been avoided by the pilot taking adequate data protection measures.

4.3.3 The above limitations of liability also apply mutatis mutandis to the vicarious agents of FairFleet.

4.3.4 The above limitations of liability do not apply to claims under the Product Liability Act.

#### **4.4 Privacy policy**

FairFleet collects, processes and uses data from the pilot as detailed in the Privacy Policy.

#### **4.5 Subject to change**

Changes to these terms and conditions will be communicated to the pilot by FairFleet in writing, by fax or by email. If the pilot does not object to the changes within a period of 4 weeks from receipt of this notice, the changed terms and conditions shall be deemed agreed. The right to object and the legal consequences of his/her silence shall be separately indicated to the pilot in the event of a change in the terms and conditions.

#### **4.6 Involvement of third parties, transferability**

- 4.6.1 FairFleet is entitled to employ its services in accordance with the user agreement and to exercise its rights vis-à-vis third parties.
- 4.6.2 FairFleet is entitled, with a four week notice, to transfer the rights and duties from this contract, partly or fully to third parties.

The following terms and conditions govern the use of the platform (see below) by customers.

**Please read the terms and conditions carefully. Your knowledge and acceptance is a prerequisite for the use of the platform.**

The terms and conditions can be saved and printed via the browser.

## **1. Scope**

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## **2. Use of the platform**

### **2.1 Description**

- 2.1.1 FairFleet operates the website [www.fairfleet360.com](http://www.fairfleet360.com) (the "**website**") and any associated mobile apps ("**apps**"; website and apps collectively hereafter the "**platform**"). Using the platform, FairFleet customers can engage in the creation and, where applicable, the editing of videos and/or photographs ("**aerial photographs**") by drones from non-public areas, such as non-public real estate projects.

2.1.2 FairFleet does not fly the drones itself, but instead hires independent, professional drone pilots.

## **2.2 Conclusion of the contract of use**

2.2.1 By using the platform, the customer concludes a user agreement with FairFleet, on the basis of these terms and conditions (the "**user agreement**"). A claim for the conclusion of a user agreement does not exist.

2.2.2 The conclusion of the user agreement presupposes that the customer is an entrepreneur, i.e. he/she acts on behalf of his/her commercial or independent professional activity (§ 14 Abs. 1 BGB). He/she must, therefore, in the course of the tender (paragraph 2.2.4) also specify his/her VAT ID.

2.2.3 The user agreement is concluded by offer and acceptance. The offer is made by the customer, in which he/she either proceeds according to paragraph 2.2.4 Variant 1) or according to paragraph 2.2.7 (Variant 2).

2.2.4 Variant 1: The customer enters the registration data that is to be given to FairFleet into the form provided on the platform and, by clicking on the corresponding fields in the form, agrees to the validity of these terms and conditions and to the data privacy policy. By clicking on the corresponding button in the form, the customer then submits his/her offer to conclude a user agreement for the platform. The customer remains bound to the offer until receipt of acceptance by FairFleet according to section 2.2.6, but for no longer than two weeks from submitting the offer.

2.2.5 FairFleet will promptly notify the customer by email of the receipt of his/her offer and will use this information email to send these terms and conditions and the data privacy policy. This informational email does not constitute acceptance of the customer's offer. Rather, the user agreement is finalized only with a separate acceptance email from FairFleet (paragraph 2.2.6).

- 2.2.6 If FairFleet decides to accept the customer's offer to enter into a user agreement, FairFleet will send the customer an email stating that he/she has been accepted onto the platform, or will state acceptance in another way (e.g. by phone). When the customer has received the acceptance email, or when the acceptance has been declared in another way, the user agreement for the platform between the customer and FairFleet is concluded.
- 2.2.7 Variant 2: The customer can also directly request the conclusion of an aerial photography contract (see paragraph 3.2.3). In this case, the submission of the offer to conclude an aerial photography contract is also the offer to conclude a user agreement for the platform. The acceptance of the offer in this case depends on the regulations of 3.2.2 ff.
- 2.2.8 The customer must enter the registration data truthfully and completely.
- 2.2.9 If the customer is a natural person then he/she must, when submitting his/her offer according to paragraph 2.2.4 or 2.2.7, have reached the necessary minimum age of his/her country of residence, but must be at least 18 years of age.
- 2.2.10 If the customer is a legal entity then the offer, in accordance with paragraph 2.2.4 or 2.2.7, may only be carried out by an authorized number of natural persons, who must be named.

### **2.3 Usage, rights of use, termination, no circumvention**

- 2.3.1 The customer owes FairFleet no compensation for using the platform.
- 2.3.2 The customer must keep his/her registration data up-to-date at all times. He/she can edit his/her profile on the platform.
- 2.3.3 The customer must keep his/her login data to the platform secret, especially his/her password. He/she is obliged to inform FairFleet immediately if he/she has evidence of misuse of his/her login data.

- 2.3.4 The customer is aware is aware that an internet platform such as this one is a dynamic offering and FairFleet must be able to adapt the services offered by the platform at any time. FairFleet is therefore entitled to change the services provided via the platform, particularly if it is required to for legal, commercial or objective reasons.
- 2.3.5 FairFleet endeavors to keep the platform available without interruptions and to transmit data without errors. However, due to the nature of the internet, FairFleet cannot guarantee unlimited access to the platform at all times. For technical reasons (e.g. maintenance work) or due to force majeure (e.g. power failure), this access may be interrupted or restricted temporarily and without notice.
- 2.3.6 The customer is prohibited from posting content on the platform that violates legal regulations. It is clarified that this may also include the relevant legal regulations of his/her non-German country of residence.
- 2.3.7 Furthermore, he/she is prohibited from posting content that violates the rights of third parties, in particular copyrights, trademarks or personal rights. FairFleet reserves the right to immediately suspend such content as soon as it becomes known to FairFleet.
- 2.3.8 The customer must ensure that the information and data he/she has posted on the platform is not affected by viruses, worms or Trojan horses.
- 2.3.9 The customer indemnifies FairFleet from all claims which a third party may assert against FairFleet from the items listed in paragraphs 2.3.4 to 2.3.9.
- 2.3.10 For content uploaded to the platform by the customer, such as texts, photographs or graphics, the customer grants FairFleet, at the time of upload to the platform, a simple, temporally and geographically unlimited, transferable and sub-licensable free-of-charge right to use for the purposes of the platform, in particular



- for duplication and distribution using digital storage and playback media, regardless of the technical equipment and including all digital and interactive systems, and for reception by stationary and mobile terminals, regardless of the transmission path and transmission method;
- for storage and retrieval in electronic databases, including those in search engines, and electronic data networks, no matter what storage and transmission technology is used;

regardless of the purpose of use, in particular for marketing purposes by FairFleet.

The transferred rights of use also include the right to edit the contents, particularly in such a way that they can be displayed on mobile devices (e.g. smartphones and tablets) as appropriate.

- 2.3.11 It is pointed out that FairFleet grants the customer no rights of use for protected works and other intellectual property rights of the platform. For example, the user agreement does not entitle the customer to use any photographs or trademarks displayed on the platform.
- 2.3.12 The user agreement is concluded for an indefinite period. It may be terminated by either party at any time, even without good cause. It is pointed out that aerial photography contracts (para 2.4) concluded prior to the termination of this user agreement are still implemented in accordance with these terms and conditions. It is also clarified that the conclusion of the license agreement does not oblige the customer to enter into aerial photography contracts (para 2.4) with FairFleet.
- 2.3.13 Termination must be in writing (e.g. fax) to be effective. Email is sufficient.
- 2.3.14 The customer must not circumvent the platform, such as by attempting to directly enter into additional agreements or aerial photography contracts with pilots registered on the platform.

## **2.4 Blocking**

2.4.1 FairFleet is entitled to block the customer's profile and access to the platform if and for as long as there is indication that the customer is failing to meet his/her obligations according to this agreement.

2.4.2 FairFleet has the right to permanently suspend the customer's profile and access to the platform, if FairFleet deems that this is necessary for the platform to continue functioning or for other platform users, especially if the customer

- has provided incorrect data during registration, and the error is not completely insignificant;
- has passed on his/her access data to a third party or his/her access data has otherwise become known to third parties;
- has violated his/her duties according to paragraph 2.3.4 or 2.3.7.

## **3. Aerial photography contract**

### **3.1 Subject of the contract**

3.1.1 The subject of the aerial photography contract is Fairfleet's creation of aerial photography using drone flights in certain non-public areas selected by the customer, for which the customer has obtained the necessary rights (para 3.5). FairFleet does not carry out the drone flights itself, but assigns them to independent, professional drone pilots.

3.1.2 If indicated by the customer in his/her request (para 3.2.3), the offers from FairFleet 3.2.5 also include the editing of the created aerial photographs by FairFleet. "Editing" here means that FairFleet, with special software, uses aerial photography to create orthographic views and data sets, so-called "orthophotos", or carries out other editing work requested by the customer.

### **3.2 Conclusion**

3.2.1 The offers on the platform are not binding.

- 3.2.2 The contract regarding conducting a drone flight to take aerial photographs (the "**aerial photography contract**") is concluded after offer and acceptance in accordance with the following paragraphs 3.2.3 ff.
- 3.2.3 The customer submits a request for the order of certain aerial photos to be taken by drones, using the form provided on the platform (see also paragraph 3.2.9). This request does not constitute an offer to conclude an aerial photography contract, but merely an "invitatio ad offerendum", with which the customer merely signals his/her willingness in principle to enter into an aerial photography contract with FairFleet.
- 3.2.4 FairFleet will promptly notify the customer of the receipt of his/her offer by email and, with this information email, will send him/her these terms and conditions and data privacy policy.
- 3.2.5 Based on the request (para 3.2.3), FairFleet makes one or several offers to conclude an aerial photography contract. This is done in such a way that FairFleet places one or several offers for the production of the requested aerial photographs in the "dashboard", a part of the platform that can only be viewed by the customer. Unless otherwise stated, each offer is valid for 30 days from the date it is made. These offers are based on offers previously made by different drone pilots who have been requested by FairFleet on the basis of customer requests. However, these offers do not represent offers from the pilots to the customer, but Fairfleet's own offers for the conclusion of an aerial photography contract.
- 3.2.6 The customer can accept one of the offers by clicking on the corresponding submit button. By clicking on this button, the customer also agrees to the validity of these terms and conditions and FairFleet's data privacy policy.
- 3.2.7 By clicking on the submit button, the customer accepts the relevant offer from FairFleet to enter into an aerial photography contract and the aerial photography contract has been concluded between FairFleet and the customer.

- 3.2.8 Promptly after conclusion of the contract, FairFleet sends the customer a confirmation email confirming the conclusion of the aerial photography contract.
- 3.2.9 Instead of using the platform template, the customer can also submit their request to FairFleet by other means, such as by email, telephone or fax. In this case, the compensation to be paid by the customer includes an additional processing fee (Art 3.8.2), unless it is a package booking (see para 3.4).
- 3.2.10 If the customer's request includes the offer to conclude a user agreement for the platform (para 2.2.7 ), the order confirmation according to paragraph 3.3.6 also includes the offer to conclude the user agreement for the platform. The sending of offers by FairFleet (paragraph 3.2.5 ) represents conclusively the acceptance of the offer to conclude the user agreement.
- 3.2.11 Any necessary coordination between the parties needed to carry out the drone flight to create the aerial photographs - for example, the agreement of appointments for site visits - shall not prevent the conclusion of the contract; § 154 para. 1 BGB is excluded.
- 3.2.12 Clauses 2.2.8 to 2.2.12 also apply accordingly for the conclusion of the aerial photography contract.

### **3.3 Execution periods**

- 3.3.1 Deadlines and appointments provided by FairFleet for the contractual services are always approximate, unless a fixed deadline or a fixed date has been expressly agreed or scheduled.
- 3.3.2 FairFleet may - regardless of its rights concerning default on the part of the customer - require the customer to extend a delivery period or to postpone delivery dates, if the customer fails to comply with FairFleet's contractual obligations.
- 3.3.3 FairFleet is not liable for impossibility of performance or for delays, if these happen as a result of Acts of God or other events which were unforeseeable at the time of the contract (e.g. disruption of any kind,

difficulties in the procurement of materials or energy, strikes, legal lockouts, official measures), which FairFleet is not responsible for. If such events make it significantly more difficult or impossible for FairFleet and the hindrance is permanent, FairFleet is entitled to withdraw from the contract. For temporary obstacles, the service periods are extended or the service dates are postponed for the period of the hindrance, plus a reasonable restarting period. If, as a result of the delay, the customer cannot reasonably be expected to accept the service, the customer may rescind the contract by promptly issuing a written declaration to FairFleet.

- 3.3.4 If FairFleet falls into delay or FairFleet becomes unable to perform for any reason whatsoever, FairFleet's liability for damages is limited in accordance with clause 3.11.

#### **3.4 Package bookings**

- 3.4.1 If the customer has concluded aerial photography contracts for several drone flights to create aerial photographs ("**package booking**"), the customer's right for the drone flights that have not yet been carried out to be carried out expires two years after conclusion of the contract (limitation period).
- 3.4.2 In the case of package bookings, there is no processing fee (clause 3.2.9).

#### **3.5 Obligations of the customer**

- 3.5.1 The customer ensures that he/she is the owner of the area in which aerial photography is to be taken, or that he/she has obtained the owner's consent to conduct the drone flight and take aerial photography. If this is not the case, the customer exempts FairFleet from all claims of the owner.
- 3.5.2 The customer takes the necessary cooperative steps to carry out the aerial photography contract. In particular, the customer shall promptly provide FairFleet with any necessary documents (e.g. plans of the terrain which will be flown over).

### **3.6 Mutual rights of use**

3.6.1 Upon receipt of payment of the fee which is due (see para 3.7), FairFleet grants the customer an exclusive; unlimited in time, place and content; transferable; and sub-licensable right of use for the created, possibly edited, aerial photographs (the "**work**").

3.6.2 The customer grants FairFleet the following rights:

Upon completion of the aerial photography agreement, limited in time to the date of acceptance of the aerial photographs, the customer shall grant FairFleet rights of use to any copyrighted work, in particular copyrighted works located in an area in which Fairfleet is contracted to produce aerial photographs. The right includes, in particular, the simple, geographically unlimited, sub-licensable right

- to duplicate,
- to make publically accessible, and
- to process

these works.

3.6.3 The customer assures FairFleet that he/she is in possession of the rights provided for the above rights (3.6.2) and that FairFleet, by using as permitted, does not infringe any third-party rights. The customer indemnifies FairFleet against third-party claims for infringement of its rights.

### **3.7 Acceptance**

3.7.1 FairFleet will inform the customer via email as soon as the - possibly edited - aerial photographs are available for the customer to view and retrieve on the platform.

3.7.2 If the customer does not issue a Declaration of Acceptance to FairFleet within two weeks after receipt of the information email according to paragraph 3.7.1, the acceptance shall be deemed to

have been declared. FairFleet will explicitly inform the customer again about this consequence in the information email.

### **3.8 Compensation, payment methods**

- 3.8.1 The prices quoted on the platform do not include any applicable VAT, fees and other public charges.
- 3.8.2 In the event that the customer does not submit his/her request to FairFleet via the platform's online template, but by other means of communication (para 3.2.9), with the exception of package bookings (para 3.4 ), an additional processing fee of 10% of the agreed total price will apply, plus any applicable VAT.
- 3.8.3 The compensation to FairFleet, including the processing fee if applicable (para 3.8.2 ), is due with the acceptance (numeral **Error! Reference source not found.**) of the - possibly edited - aerial photographs.
- 3.8.4 FairFleet is entitled to provide pending drone flights and, if applicable, editing of the aerial photographs only in exchange for advance payment or a security deposit if, after the completion of the aerial photography contract, FairFleet becomes aware of circumstances which may significantly reduce the customer's trustworthiness and which may endanger outstanding receivables being paid to FairFleet by the customer from the respective contractual relationship.

### **3.9 Termination**

If the customer terminates the aerial photography agreement in accordance with § 649 BGB, FairFleet shall be entitled to 30% of the agreed compensation for the service section not yet provided, unless FairFleet proves that FairFleet is entitled to higher compensation pursuant to § 649 p. 2 BGB.

### **3.10 Warranty rights**

- 3.10.1 If the - possibly edited - aerial photographs are defective, the customer is entitled to demand supplementary performance from

FairFleet. If there is no subsequent fulfillment, the customer is entitled to either reduce his/her payment or to withdraw from the aerial photography contract. Here, the customer's warranty claims according to § 634 BGB are excluded.

3.10.2 The limitation period for the customer's claims according to the above paragraph 3.10.1 is one year from acceptance.

### **3.11 Liability**

3.11.1 When it comes to fault, FairFleet is liable to the customer in case of intent and gross negligence. In case of ordinary negligence FairFleet is only liable

a) for damage resulting from injury to life, body or health,

b) for damages resulting from a breach of a material contractual obligation (the fulfillment of which obligation enables the proper execution of the contract in the first place and the compliance of which the contractual partner regularly relies and may rely on); however, liability in this case is limited to compensation for foreseeable, typically occurring damage.

3.11.2 The above limitations of liability also apply mutatis mutandis to the vicarious agents of FairFleet.

3.11.3 The above limitations of liability do not apply to claims under the Product Liability Act.

### **3.12 Compensation, retention**

The customer is only entitled to compensation, retention and objection to an unfulfilled contract if the counterclaims are legally established, recognized or undisputed, except that the customer can demand that FairFleet remedy a defect. In this case, the customer is entitled, according to § 641 Abs. 3 BGB, to retain an appropriate part of the compensation until the defect has been remedied.

## **4. General provisions**



#### **4.1 Applicable law, place of jurisdiction**

4.1.1 These terms and conditions and the business relationship between FairFleet and the customer are governed by German law, excluding the United Nations Convention on Contracts for the International Sale of Goods.

4.1.2 If the customer is a businessman, as referred to in Section 1 (1) HGB, or if he/she has no general place of jurisdiction in the Federal Republic of Germany, the district court at FairFleet's location is exclusively responsible for all disputes arising from the business relationship with the customer.

#### **4.2 Contract language**

The user agreement for the platform (para 2.1.1 ) and the aerial photography contract (para 2.4 ) are concluded in German.

#### **4.3 Privacy Policy**

FairFleet collects, processes and uses customer data as detailed in the Privacy Policy.

#### **4.4 Subject to change**

Changes to these terms and conditions will be communicated to the customer by FairFleet in writing, by fax or by email. If the customer does not object to the changes within a period of 4 weeks from receipt of this notice, the changed terms and conditions shall be deemed agreed. The right to object and the legal consequences of his/her silence shall be separately indicated to the customer in the event of a change in the terms and conditions.

#### **4.5 Involvement of third parties, transferability**

4.5.1 FairFleet is entitled to employ its services in accordance with the user agreement and to exercise its rights vis-à-vis third parties (see also paragraphs 2.1.2 and 0 ).

4.5.2 FairFleet is entitled, with a four week notice, to transfer the rights

and duties from this contract, partly or fully to third parties.

Terms and conditions as of: March, 26, 2018