

GENERAL TERMS AND CONDITIONS (“GTC”)

With the creation of an account for awork (the Login) via the Internet presence of awork GmbH under awork.io (the Provider) you (the Customer) accept the following General Terms and Conditions (GTC).

1. INTRODUCTION

1.1 GENERAL INFORMATION

These General Terms and Conditions underlie all agreements about the deliveries and services of the Provider. With registration, the Customer declares that it is in agreement with the General Terms and Conditions. We accept counter-confirmations of the Customer with reference to its General Terms and Conditions only insofar as they do not contradict our General Terms and Conditions. Supplementary or deviating agreements require the express written permission of the Provider. The Customer is the natural or juridical person who has registered.

1.2 CHANGES

The Provider reserves the right to change these General Terms and Conditions at any time and without naming reasons in a way that is acceptable for the Customer. Changes will be communicated to the Customer by email no later than 2 months before the coming-into-force of the altered General Terms and Conditions.

If the Customer does not take issue with the altered General Terms and Conditions within two weeks after accessing the email of the Provider about the change of the General Terms and Conditions following Sentence 2 of this Figure 1.2, the silence of the Customer counts as an agreement to the altered General Terms and Conditions, which from then on will be a part of the contract in its altered form. If the Customer takes issue with the changes in the General Terms and Conditions and can show that the changes are not acceptable, the Customer will receive a special right of termination.

2. CONCLUSION OF CONTRACT

2.1 CONTRACTUAL OBJECT

The object of the contract is the transfer of software of the Provider in the Software-as-a-Service (SaaS) model for use via the Internet and the storage and processing of the data of the Customer (Data-Hosting). Moreover, the Customer can commission advising, training, and development services from employees of the Provider or third parties under the framework of the contract. The carrying out of the advising, training, and development services is determined in an individual arrangement between the Customer and the Provider.

2.2 CONCLUSION OF CONTRACT

The contract between the Customer and the Provider comes about through registration via the Internet presence of the Provider. The service is done subject to availability, if this depends on third parties and these will not cause non-availability. After a service delay of more than 4 weeks, the Customer has the right to set a deadline of at least 14 days for the provision of the service. After the expiration of this deadline, he can retreat from the contract in a written declaration, insofar as the service has not yet been performed. Prepayments already made are refunded in this case, whereby the Customer must take into account the services received. As long as there is no gross negligence or malice, damages for a delayed service are excluded.

2.3 COMMERCIAL USE

The software is intended for commercial customers (B2B). With the activation of the subscription, the Customer confirms that it will use the software for commercial purposes.

2.4 REGISTRATION

After the registration via the Internet presence of the Provider, the Customer receives a personal account. These access data may not be passed on. The Customer is itself responsible for their secure storage. Registration under a false name and a fictional email account is not allowed. In case of obviously fictional information, the Provider reserves the right to delete the account. The Customer will compensate the Provider for all damages that touch upon Figure 2.4 by a Customer due to its infringement.

2.5 OBLIGATIONS OF THE CUSTOMER

The Customer undertakes not to use the software in improper fashion. There is improper use in particular when the Customer (a) introduces data into the system that contains a computer virus and (b) uses the software in a type and way that negatively influences the availability of the software for other users. The Customer undertakes to release the Provider for possible damages, including the claims of third parties as well as subsequent costs of any time, in case it injures the General Terms and Conditions.

The Customer undertakes to prevent unauthorized access of third parties to the software through suitable precautions. Relevant to this is keeping the password safe and not making it available to third parties. The Customer must also inform its employees (in the following called User) about this. The Customer is itself responsible for the submission and care of its data and information that is necessary for the use of the SaaS service.

2.6 SOFTWARE TRANSFER

a) The Provider makes available for use to the Customer for the length of the registration the software in the respectively current version via the Internet. All not expressly granted rights of use remain with the Provider or, if different, with the original author.

For the purpose of software operation, the Provider will save the software on a server that can be reached by the Customer via the Internet.

The Provider will make available to the Customer free updates during the run time of the contract. There are no additional costs for support and upgrades. The following services are not regular support services and thus will incur a cost:

- Database changes
- Data recovery at the wish of the Customer
- Data imports that are not offered explicitly for free

The offered support channels are available for the booked plan.

b) The Provider will continually oversee the functionality of the software and will remove all software errors according to the technical possibilities that would limit the use of the software or make it unusable.

- c) The Provider is entitled to add new functions to the software and to remove them. Should the removal of functions reduce the use for the Customer in a way that is contradictory to the contract, the Customer will receive an immediate special right of termination.

2.7 FEE

The fee for the use of the software (Subscription) is determined according to the scope of the contractual object defined under 2.1. If the Customer selects a free plan, he is obligated to pay the Provider for the software transfer and the data hosting the agreed-upon monthly fee plus the respectively valid value-added tax. If the Customer is at least 30 days in default of the payment, the Provider is entitled to refuse service until the outstanding fee is paid. This can happen, for example, through cessation of access to the software. If the Customer is at least 60 days in default of the payment, the Provider is entitled to exceptionally terminate the overall contractual relationship. For the purpose of clarification, all claims to belated payments of the Customer remain unaffected by such extraordinary termination.

The Provider is entitled to reasonably increase the fee and must communicate this to the Customer via email no later than 2 months in advance of the expiration of the current payment cycle. The Customer has, independent of special agreements, the right to terminate its contract at the end of the current payment cycle, should the price increase amount to more than 5%.

2.8 UP-/DOWNGRADING

The change to a more expensive plan (Upgrade) or the booking of Users is possible at any time in the respective subscription without a deadline. The change into a less expensive plan (Downgrade) or the deduction of Users is possible until the end of the current accounting period. Functions that are coupled to a certain subscription are activated or deactivated with the coming into effectiveness of the up-/downgrade.

2.9 TERMINATION

- a) The contract is concluded for an undetermined time. A termination is possible at the end of the current billing period, in the case of a free subscription immediately, without a deadline in the respective account. After termination, the Provider has the right to delete the account, including all data, after the entry into force of the termination. At the request of the Customer and as far

as is technically possible, the Provider will make available to the Customer its data in a machine-readable format after a successful termination. Such a provision of data is not recognized by the fee in accordance with Figure 2.7 of these General Terms and Conditions. The Provider and the Customer will come to an agreement about the compensation for the data provision that is based upon the effort involved.

- b) The parties have the right to immediately dissolve the contract for a substantial reason. A substantial reason is available to the Provider in particular if the Customer
- commissions the opening of the insolvency procedure about its assets or the opening of the insolvency procedure is denied for lack of assets,
 - is in default by 60 days with payment obligations from this contractual relationship and it was successfully reminded with the setting of an acceptable deadline and with the threat of the dissolution of the contract,
 - in the use of the software has culpably injured legal specifications or has touched upon copyright laws, industrial copyrights, or the name rights of third parties,
 - uses the software for the purpose of the promotion of criminal, illegal, or ethically doubtful actions.
- c) The Provider has the right to terminate free accounts with a deadline of 30 days at any time.

3. DATA PROTECTION & DATA SECURITY

3.1 PERSONAL DATA OF THE USER

The protection of privacy is of the highest priority for the Provider. The personal data of the Customer and of the Users is treated with particular care. The Users declare that they are in agreement that their personal data will be stored and processed. This personal data will not be made available to third parties without notice and without the explicit agreement of the User, except if the forwarding is necessary for one of the following reasons:

- for the legal protection of the Users
- to fulfill legal or official requirements
- for the defense and for the protection of the rights of the Provider or
- for the technical operation of the software

Users will be made aware about product news within the software and by email.

The contractual parties undertake to follow the specifications of the Federal Data Protection Act. At the completion of the contract, for the settlement of the business relationship, and in the course of the use of the software, the Provider will levy personal data of persons associated with the Customer. This data will be used by the Provider exclusively in line with what is allowed under the Federal Data Protection Act. In no case will it be forwarded to third parties for advertising purposes. The Provider is entitled to levy, process, use, and store the personal data that is necessary for the processing of the business relationship in line with the Federal Data Protection Act and the Telemedia Act.

Insofar as the valid data protection laws are not injured, the Provider is entitled to carry out aggregated evaluations and the stored data and to use this data to improve the product.

3.2 CONFIDENTIALITY

The Provider is obligated to keep all business or operating secrets of the Customer it encounters in the course of the processing, implementation and fulfillment of the contract secret and to neither pass these on or utilize them in another fashion.

The Provider is entitled to name the Customer as a reference using the company and the logo and to use the general information via the agreed-upon contract in a suitable way for marketing and distribution purposes – except if the Customer objects to this point in writing.

3.3 DATA ENCRYPTION

In order to ensure the protection of the User, all communication with the software of the Provider is encrypted over the HTTPS protocol.

3.4 DATA SECURITY AND DATA PROVISION

The Provider is obligated to make suitable arrangements against data loss and for the prevention of unauthorized access by third parties to the data of the user.

In order to secure data of the user occurring during use, the Provider will prepare data backups at least two times a day. This backup is stored on other servers, which are secured in multiply redundant fashion. The Customer has no right to the restoration of its data, should the Customer suffer data loss as a result of its own fault.

An individual reconstruction of data is possible upon request and is calculated at cost.

In any case, the User remains the sole person entitled to the data and can thus at any time demand from the Provider, in particular after the termination of the contract, the surrender of individual or all data without the Provider having a right of retention. The surrender of the data will be done through sending in digital form. The settlement of this data provision and surrender takes place after upon consultation at cost. The Customer has no claim to also receive the software suitable for the use of the data.

3.5 SUBCONTRACTOR

The Provider uses the web services of the provider segment.io, Inc. (Segment) and Zendesk Inc. (Zendesk), with which the Provider can offer the best possible and personal support. These services register usage data (contact data, last login date, browser, operating system, etc.). The Customer declares itself in agreement with the use of web services Intercom, Segment, Mixpanel & Zendesk and the thus associated necessary data processing.

4. DEFECTS & GUARANTEE

4.1 DEFECTS

The Provider will render the service largely in such a way that this is stated on the Internet presence of the Provider for a normal use under normal conditions.

If the services provided by the Provider according to this contract are deficient, the Provider will improve or perform them anew within an appropriate deadline and after access to a complaint according to its own choice. The Customer is obligated to immediately report to the Provider defects via the customary support channel. If the Customer has not booked support, he can send defects to the contact address in the legal notice of the Provider. If the repair or the replacement is not done by the Provider within an appropriate deadline by the Customer, it is entitled to reduce the service price according to its choice or to end the contract.

4.2 AVAILABILITY

In the case of a shortfall of the system availability of important functions of the software of 99.5% within the last 30 days, the Customer can reduce its compensation as corresponds to the shortfall. These data are either made available by the Provider or are provided upon request, in case this data it not publicly available.

4.3 GUARANTEE

The Provider undertakes no assurance, security, or guarantee that

- a) the use of the products corresponds to the expectations of the Customer
 - b) all defects or errors regarding the products or functionality that are a component of the software made available with the product are remedied, if these do not influence the core functionality
- inssofar as nothing else is expressly agreed on, advice or information that the Customer has received from the Provider form no guarantee claims against the Provider.

The Provider does not guarantee that the software is suitable or available for use in other locations outside of the contractual area.

The exceptions in accordance with Figure 4.3 of these General Terms and Conditions do not influence the legal rights of the Customer to which it has a claim in any case and that are not contractually negotiable.

5. LIABILITY

5.1 UNAUTHORIZED ACCESS

The Provider is not liable for (a) damages that arise to the Customer from the use of the software and (b) damages that because of unauthorized access of personal user data by third parties (e.g. through unauthorized access by hackers to the database). The Provider can likewise not be made liable for disclosures and information that the User itself has made available to third parties that this third party has misused.

5.2 STORED CONTENTS

The Customer bear the sole responsibility for stored contents and files that require a license (e.g. letters and images).

5.3 CLAIMS OF THIRD PARTIES

The Customer undertakes to release the Provider from all claims of third parties that touch upon the data stored by him and to reimburse the Provider for the costs that arise to him because of possible legal injuries.

5.4 SUSPICION OF ILLEGALITY

The Provider is entitled to immediately lock an account if there is founded suspicion that the stored data was obtained illegally and/or that it injures the rights of third parties. A founded suspicion for illegality and/or a legal injury is present in particular if courts, authorities, and/or other third parties make the Provider aware of this. The Provider must immediately inform the Customer about the locking and the reason for it. The locking must be lifted as soon as the suspicion is refuted.

6. COMMUNICATIONS

All communications must be sent to the given addresses in writing. The sending via email satisfies the requirement to inform in writing. The contractual partners are obligated to immediately make known to the other contractual partner address changes, otherwise communications to the last known address made in writing will count as legally valid.

7. FINAL PROVISIONS

7.1 OFFSET

The Customer can add other claims than his contractual counterclaims from the respectively affected legal transaction or assert a right of retention if this claim is not contested by the Provider or is established as legally binding.

7.2 APPLICABLE LAW

The law of the Federal Republic of Germany applies. The language of the contract is German.

7.3 PLACE OF JURISDICTION

The exclusive place of jurisdiction for all disputes of the parties from or during the business relationship is the competent court in Hamburg.

7.4 SEVERABILITY CLAUSE

Should individual determinations or parts of the contract prove to be ineffectual, the validity of the overall agreement in total is not affected. In such a case, the contractual partners must adjust the contract so that the part that has become invalid or ineffective is achieved as far as possible.