

GENERAL TERMS AND CONDITIONS ("GTC")

By creating an account for awork (*the registration*) via the website of awork GmbH at awork.com (*the provider*), you (*the customer*) accept the following General Terms and Conditions (GTC).

1. INTRODUCTION

1.1 GENERAL

All contracts for deliveries and services provided by the provider are based on these GTC. By registering, the customer agrees to the GTC. We only accept counter-confirmations from the customer with reference to their GTC insofar as they do not contradict our GTC. Supplementary or deviating agreements require the express written consent of the provider. For the purposes of these GTC, the customer is the natural or legal person who concludes the contract with the provider by registering in the software. Users are all persons authorised by the customer (e.g. employees, project participants) who are granted access to the software.

1.2 CHANGES

The provider reserves the right to change these terms and conditions at any time and without giving reasons in a manner reasonable for the customer. Changes will be communicated to the customer by email no later than two months before the amended terms and conditions come into effect.

If the customer does not object to the amended GTC within two weeks of receiving the provider's email regarding the amendment to the GTC in accordance with sentence 2 of this clause 1.2, the customer's silence shall be deemed to constitute acceptance of the amended GTC, which shall henceforth form part of the contract in their amended form. If the customer objects to the changes in the General Terms and Conditions and can prove that the changes are unreasonable, the customer shall be granted a special right of termination.

2. CONCLUSION OF CONTRACT

2.1 SUBJECT MATTER OF THE CONTRACT

The subject matter of the contract is the provision of the provider's software in the Software-as-a-Service (SaaS) model for use via the Internet and the storage and processing of the customer's data (*data hosting*). In addition, the customer may commission consulting, training and development services from employees of the provider or third parties within the scope of the contract. The performance of the consulting, training and development services shall be determined by individual agreement between the customer and the provider.

2.2 CONCLUSION OF CONTRACT

The contract between the customer and the provider is concluded by registering on the provider's website. The service is provided subject to availability if this depends on third parties and they cause the unavailability. After a delay in performance 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 this period has expired, the customer may withdraw from the contract by written declaration if the service has not been provided by then. In this case, any advance payments already made will be refunded, whereby the customer must allow any services received to be offset against this. Unless there is gross negligence or intent, compensation for damages in the event of delayed performance is excluded.

2.3 COMMERCIAL USE

The software is intended for commercial customers (*B2B*). By activating the subscription, the customer confirms that they will use the software for commercial purposes.

2.4 REGISTRATION

After registering on the provider's website, the customer will receive a personal account. These access data may not be passed on to third parties. The customer is responsible for keeping them safe. Registration under a false name and fictitious email accounts is not permitted. In the event of obviously fictitious information, the provider reserves the right to delete the account. The customer shall compensate the provider for all damages caused by the customer due to a violation of this section 2.4.

2.5 OBLIGATIONS OF THE CUSTOMER

The customer undertakes not to misuse the software. Misuse shall be deemed to have occurred in particular if the customer (a) enters data into the system that contains a computer virus and (b) uses the software in a manner that negatively affects the availability of the software for other users. The customer undertakes to indemnify the provider against any damages, including third-party claims and consequential costs of any kind, if they violate the General Terms and Conditions.

The customer undertakes to prevent unauthorised access to the software by third parties by taking appropriate precautions. This includes, in particular, keeping the password secret and not making it accessible to third parties. The customer must also inform their employees (*users*) of this. The customer is responsible for entering and maintaining the data and information required to use the SaaS service.

2.6 SOFTWARE PROVISION

- a) The provider shall make the latest version of the software available to the customer for use via the Internet for the duration of the subscription. All rights of use not expressly granted remain with the provider or, if different, with the respective copyright holder.

For the purpose of operating the software, the provider stores the software on a server that is accessible to the customer via the Internet.

The provider shall provide the customer with updates free of charge during the term of the contract. There are no additional costs for support and upgrades. The following services are not regular support services and are therefore subject to a charge:

- Database changes
- Data recovery at the customer's request
- Data imports that are not explicitly offered free of charge

The support channels offered depend on the tariff (*plan*) booked.

- b) The provider continuously monitors the functionality of the software and, to the extent technically possible, eliminates all software errors that restrict or prevent the use of the software.
- c) The provider is entitled to add and remove new functions to the software. If the removal of functions disproportionately restricts the customer's use, the customer shall be granted an immediate

special right of termination. The special right of termination shall not apply if the provider temporarily makes functions available to the customer for testing purposes and then removes them again.

2.7 FEE

The fee for the use of the software (*subscription*) is determined by the scope of the subject matter of the contract as defined in 2.1. If the customer chooses a paid subscription, they undertake to pay the provider the agreed monthly fee plus the applicable value added tax for the provision of the software and data hosting. If the customer is at least 30 days in arrears with a payment, the provider is entitled to refuse performance until the outstanding fee has been paid. This is done, for example, by suspending access to the software. If the customer is at least 60 days in arrears with a payment, the provider is entitled to terminate the entire contractual relationship with immediate effect. For the sake of clarity, all claims for late payments by the customer remain unaffected by such extraordinary termination.

The provider is entitled to increase the fees appropriately and must notify the customer of this at least 2 months in advance by email. Irrespective of any special agreements, the customer has the right to terminate their contract when the price increase comes into effect if it exceeds 5%. Termination must take place before the actual price increase.

2.8 UPGRADING/DOWNGRADING

It is possible to switch to a more expensive subscription (*upgrade*) or add users at any time without notice in the respective subscription. Switching to a cheaper subscription (*downgrade*) or removing users is possible at the end of the current billing period. Functions that are linked to a specific subscription will be activated or deactivated when the upgrade/downgrade takes effect.

2.9 AWORK CONNECT

The customer is entitled to use the awork Connect function exclusively to invite external persons (e.g. customers, service providers or partners) to use certain shared content. The function may not be used to temporarily provide the customer's internal users with free usage licences or to otherwise enable internal work processes without the appropriate licence. The provider reserves the right to monitor the use of awork Connect and to take appropriate measures in the event of violations.

2.10 TERMINATION

The contract is concluded for an indefinite period. Termination is possible at the end of the current billing period, or immediately in the case of a free subscription, without notice in the respective account.

The parties are free to terminate the contract immediately for good cause. Good cause shall be deemed to exist for the provider in particular if the customer

- applies for the opening of insolvency proceedings against their assets or the opening of insolvency proceedings is rejected due to lack of assets,
- is 60 days in arrears with payment obligations arising from this contractual relationship and has been unsuccessfully reminded of this after setting a reasonable grace period and threatening termination of the contract,
- culpably violates legal provisions when using the software or infringes the copyrights, industrial property rights or naming rights of third parties,
- uses the software for the purpose of promoting criminal, illegal and ethically questionable activities.

The provider has the right to terminate free accounts at any time with 30 days' notice.

2.11 CHANGE OF PROVIDER

Insofar as terms within the meaning of Regulation (EU) 2023/2854 (EU Data Act) are used in this Section 2.11, the definitions set out in that Regulation shall apply.

The software offered by the provider is a data processing service.

In accordance with the EU Data Act, the customer is entitled to submit a change request (i.e. a written notification from the customer to the provider to exercise a change option (as defined below)) to the provider at any time during the term of the contract. Upon receipt of the change request, a notice period shall commence (i.e. a period of two consecutive calendar months between receipt of the change request and the start of the initial transition period; the initial transition period refers to the period from the end of the notice period within which the provider shall carry out the change without undue delay and within thirty calendar days).

As part of the change request, the customer selects a change option (i.e. one of the options listed below under a) to c)):

- a) Switch to a data processing service of the same type;
- b) Switch to an ICT infrastructure on the customer's own premises; or
- c) Request for the deletion of all exportable data and digital assets.

In cases a) and b), the contract shall automatically terminate upon completion of the change. In case c), the contract shall automatically terminate upon expiry of the notice period. The provider shall confirm the termination.

During the transition period (i.e. the applicable initial, alternative or extended transition period as defined in this Section 2.11), which must be completed without undue delay, the Provider shall fulfil the following obligations:

- It shall provide the customer and third parties authorised by the customer with appropriate support.
- It shall exercise due care to maintain business continuity and continue to provide the services owed under the contract.
- It shall immediately disclose to the customer any known continuity risks attributable to it.
- It shall maintain a high level of security for data transfer and during the retrieval period (i.e. a period of thirty calendar days after the end of the initial or alternative transition period during which the customer can retrieve exportable data).
- It shall provide all information that the customer reasonably requires for its exit strategy.
- It shall provide the customer and the respective target provider of a data processing service of the same type with open interfaces free of charge, including sufficient information about the software so that applications can be developed to communicate with the software for the purposes of data portability and interoperability.
- Upon request, it shall provide the customer with all exportable data in a structured, commonly used and machine-readable format until statutory interoperability standards apply.
- During the transition period, the contract and any agreed service levels and support services shall continue to apply unchanged.

The provider shall also give the customer access to a continuously updated online register that

- describes the procedures for switching, including all steps to be followed by the customer, the provider and any destination provider;
- identifies the supported data formats, compression or encryption methods, application programming interfaces (APIs) and network protocols for data export and import;
- identifies applied interoperability specifications or harmonised standards; and
- discloses any technical or organisational restrictions that may significantly affect switching.

If it is technically impossible to complete the switch within the initial transition period, the provider shall inform the customer of this within fourteen working days of receiving the switch request, give reasons for this and propose an alternative transition period (i.e. a longer period proposed by the provider if the initial transition period is technically impossible, up to a maximum of seven months in total).

The customer is entitled to extend the applicable transition period once (i.e. a one-time extension of the applicable transition period initiated by the customer for a period deemed reasonable by the customer). The extension must be notified in writing before the end of the applicable transition period.

For clarification: During the respective transition periods, the contractually agreed availability and the agreed security level shall continue to apply; the fees to be paid by the customer shall remain unchanged.

After the end of the initial or alternative transition period, the customer is entitled to retrieve exportable data during the retrieval period.

Unless otherwise agreed, the provider shall automatically and irreversibly delete all exportable data and digital assets at the end of the retrieval period and confirm the deletion upon request. If the data deletion is triggered prematurely by the customer and one of its users independently in self-service, the deletion shall be immediate and irreversible. In this case, it shall no longer be possible to make the data available at a later date.

The provider lists the categories of exportable data and digital assets in a catalogue. Categories of data that are excluded from export are listed in the same place.

In accordance with the Data Act, the provisions of this section do not apply, or only apply to a limited extent, to (a) software whose essential functionalities have been developed predominantly for the individual customer or created entirely for the customer's purposes and which is not available as a standardised service within the framework of a broad commercial offering; and (b) software that is provided exclusively for testing and evaluation purposes in a non-productive environment and for a limited period of time. The provider hereby informs the customer of the obligations under the Data Act that do not apply to these services.

Upon termination of the contract in accordance with this Section 2.11, the customer shall be obliged to pay compensation for the early termination of the contract, which shall correspond to the fees that would have been incurred from the date of termination in accordance with this Section 2.11 until the end of the originally agreed contract term. This includes, in particular, all minimum purchase fees that would have become due during this period. The compensation payment for early termination of the contract is payable and due in accordance with the payment schedule agreed by the parties in the contract for the respective fees. In all other respects, the agreed payment provisions shall apply in addition, in particular Section 2.7. The customer acknowledges that, in return for agreeing to a minimum term in accordance with the order form, the provider has granted an initial discount on the list prices for the use of the software. The customer further acknowledges that the compensation payment for early termination of the contract is not related to the services provided by the provider for the change.

3. DATA PROTECTION AND DATA SECURITY

3.1 USERS' PERSONAL DATA

The protection of personal data is a top priority for the provider. Users' personal data will be processed exclusively in accordance with the General Data Protection Regulation (GDPR) and the applicable legal requirements.

Users agree to the storage and processing of their personal data to the extent necessary for the provision, use and further development of the software. Personal data will only be passed on to third parties on the basis of legal permission or with the express consent of the person concerned.

In particular, data may be transferred:

- to fulfil legal obligations or official orders,
- to protect the vital interests of the data subject or other natural persons,
- to safeguard the legitimate interests of the provider, unless the interests or fundamental rights and freedoms of the data subject prevail,
- for the technical operation of the software, e.g. by sub-service providers (processors) with whom corresponding contracts have been concluded in accordance with Art. 28 GDPR.

Within the scope of the user relationship, users receive system-related information and product-specific notices by email or within the software. The receipt of such communications is part of the contractual service provision.

The provider may use aggregated and anonymised usage data to analyse and improve the functionality of the software. Re-identification of individual users is excluded.

The processing of personal data is carried out in accordance with the statutory provisions.

3.2 USE OF FUNCTIONS BASED ON ARTIFICIAL INTELLIGENCE

The customer acknowledges and agrees that the software contains functions based on artificial intelligence (AI) systems. These are used to support users (e.g. through automated suggestions, text creation, recommendations or data analysis).

The AI functions are provided exclusively via Microsoft Azure OpenAI Services or functionally equivalent providers. Processing takes place in data centres within the European Union. Any international transfers or remote access shall be carried out in accordance with the relevant legal requirements. Based on the current product configuration, Microsoft or other providers used do not utilise the content entered by the customer to improve the underlying language models (known as training).

The AI functionality has access to the customer's data (including inputs/prompts, uploaded content/attachments, generated content, metadata and log data generated during runtime) to the extent necessary to provide the AI services, to secure operations (e.g. to prevent misuse) and to analyse errors. The customer is aware that content that they enter, edit or generate using the AI functionality offered is technically processed by the underlying AI system. Insofar as personal data is processed on behalf of the customer, the data processing agreement to be concluded between the parties applies; further information can be found in the privacy policy.

The content generated by AI is marked as AI-generated in the software's user interface in accordance with the applicable legal transparency requirements.

The customer shall be responsible for checking AI-generated content for accuracy, completeness and legal admissibility before using it productively. They shall use appropriate human control for this purpose. Automated transfer without prior checking shall not take place. AI-generated content does not constitute legally binding or conclusive recommendations under any circumstances.

The customer shall not use the AI for illegal purposes and shall take appropriate measures to avoid discriminatory or infringing results. They shall inform the provider immediately of any such indications.

Insofar as intellectual property rights arise from AI-generated content, these shall be vested in the customer. Alternatively, the provider grants the customer a simple right of use, unlimited in time and space. The rights of third parties remain unaffected. The customer is responsible for the legality of their inputs and prompts. AI functions are ancillary services and are not completely reliable due to technological developments. SLAs therefore only apply to provided AI functions if this has been expressly agreed.

The customer may voluntarily provide the provider with feedback on the AI functions (e.g. suggestions, evaluations, error reports). The customer grants the provider a simple, free, irrevocable and sublicensable licence, unlimited in time and space, to use the feedback in any form for the development, testing and improvement of the software and AI functions.

AI support is enabled by default in the software, but can be disabled at any time by the customer's administrators in the workspace settings. If disabled, the relevant functions will not be available.

Further information on the processing of personal data in connection with the AI functions can be found in the privacy policy.

3.3 CONFIDENTIALITY

The provider undertakes to maintain confidentiality regarding all business or trade secrets of the customer that come to its knowledge in the course of the preparation, execution and fulfilment of the contract and not to disclose them or exploit them in any other way.

The provider is entitled to name the customer as a reference using the company name and logo and to use general information about the agreed contract in an appropriate manner for marketing and sales purposes, unless the customer objects to this in writing.

3.4 DATA ENCRYPTION

To ensure the protection of the user, all communication with the provider's software is encrypted using the HTTPS protocol.

3.5 DATA SECURITY AND DATA PROVISION

The provider is obliged to take appropriate precautions against data loss and to prevent unauthorised access by third parties to the user's data.

In order to back up all customer data generated during use, the provider creates a data backup at least twice a day. This backup is stored on other servers that are secured with multiple redundancies.

The customer has no right to have their data restored if they suffer data loss through their own fault.

Individual reconstruction of data is possible on request and will be charged according to the time and effort involved.

In any case, the customer remains the sole owner of the data generated and stored by them or their authorised users and can therefore demand that the provider hand over individual or all data at any time, especially after termination of the contract, without the provider having any right of retention. Regardless of termination, the customer can access their data in machine-readable format at any time via the provided programming interface (API) as part of a self-service. A reasonable flat fee may be charged for individually requested data exports outside of the self-service.

3.6 SUBCONTRACTORS

The provider may use subcontractors and technical service providers (e.g. for hosting, analysis, communication or AI functions) to provide, improve and maintain its services. This also includes providers who process data on behalf of the provider (processors within the meaning of Art. 28 GDPR).

The provider ensures that all subcontractors contractually comply with the legal requirements for data protection and data security. A current list of the subcontractors used and processing activities is provided in the applicable privacy policy and in the data processing agreement (DPA).

The customer agrees to the use of these services. In the event of significant changes to subcontractors relevant to data protection, the customer will be informed in good time, if required by law.

4. DEFECTS & WARRANTY

4.1 DEFECTS

The provider shall provide the service essentially as specified on the provider's website for normal use under normal circumstances.

If the services to be provided by the provider under this contract are defective, the provider shall, within a reasonable period of time and after receipt of a notice of defect, either repair or re-perform the services at its discretion. The customer is obliged to report defects to the provider immediately via the usual support channel. If the customer has not booked support, they can send the defects to the contact address in the provider's imprint. If the provider is unable to remedy or replace the service within a reasonable period of time, the customer is entitled, at their discretion, to reduce the service price appropriately, terminate the contract and/or claim damages.

4.2 AVAILABILITY

If the system availability of essential functions of the software falls below 99.5% within the last 30 days, the customer may reduce their remuneration in accordance with the shortfall. This data will either be made publicly available by the provider or provided on request if the data is not publicly available.

4.3 EXCLUSIONS FROM WARRANTIES

The provider makes no representation, warranty or guarantee that

- a) the use of the products meets the customer's requirements or expectations
- b) All defects or errors relating to the products or functionality of the software provided to the customer as part of the product will be rectified if they do not affect the core functionality

Unless expressly agreed otherwise, advice or information received by the customer from the provider does not constitute a basis for warranty claims against the provider.

The Provider does not warrant that the software is suitable or available for use at other locations outside the contract territory.

The exclusions under Section 4.3 of these GTC do not affect the customer's statutory rights, to which they are entitled in any case and which cannot be contractually waived.

5. LIABILITY

5.1 UNLIMITED LIABILITY

The parties shall be liable without limitation

- a) for damages resulting from injury to life, limb or health based on a negligent breach of duty by one party or on an intentional or negligent breach of duty by its legal representatives or vicarious agents;
- b) in cases of intent and gross negligence;
- c) under the Product Liability Act;
- d) in the event of the assumption of a quality guarantee;
- e) in the event of fraud or fraudulent misrepresentation;
- f) for the use of the software beyond the contractually agreed scope; and
- g) in the event of breaches of the customer's payment obligations.

5.2 CARDINAL OBLIGATIONS

In all other cases of negligence, the parties shall only be liable in the event of a breach of a material contractual obligation (cardinal obligation), i.e. an obligation whose fulfilment is essential for the proper execution of this agreement and on whose compliance the parties regularly rely. In this case, liability shall be limited to the damage typically foreseeable at the time of conclusion of the contract.

5.3 FORESEEABLE DAMAGE

The parties agree that the foreseeable damage within the meaning of Section 5.2 (regardless of the legal basis, including contract and tort) arising from or in connection with the services provided by the provider to the customer or otherwise arising from the contract shall not exceed the higher of the following amounts:

- a) the fees incurred and paid by the customer for the relevant services in the twelve (12) months prior to the damaging event; or
- b) EUR 100,000.00.

The unlimited liability pursuant to Section 5.1 remains unaffected.

5.4 LIMITATION OF LIABILITY

Neither party shall be liable to the other party (regardless of the legal basis, including contract and tort) for the following damages, whether foreseeable or not at the time of conclusion of the agreement:

- a) lost savings;
- b) lost business opportunities;
- c) impairment of goodwill;
- d) consequential damages;
- e) damages resulting from the fact that the services are not used in accordance with the contract or the applicable documentation; or
- f) Damages due to a defect in rented services that already existed at the time the contract was concluded within the meaning of Section 536a of the German Civil Code (BGB).

The unlimited liability pursuant to Section 5.1 remains unaffected.

5.5 BACKUPS

The provider is not liable for the deletion of content initiated by the customer or for the customer's failure to store content and other communications stored or transmitted in the course of using the services. The customer is solely responsible for regular data backups. The provider's liability for data loss is limited to reimbursement of the costs necessary to restore the data using electronic backup media.

5.6 STORED CONTENT

The customer bears sole responsibility for stored content and files that are subject to licensing (e.g. fonts and images).

5.7 LIMITATION PERIOD.

All claims for damages shall become time-barred two years after the claim arose and the claiming party became aware of it; regardless of such awareness, they shall become time-barred after three years at the latest.

5.8 THIRD-PARTY CLAIMS

The customer undertakes to indemnify the provider against all third-party claims based on the data stored by him and to reimburse the provider for any costs incurred by the provider as a result of possible legal violations.

5.9 SUSPICION OF ILLEGALITY

The provider is entitled to immediately block the account if there is reasonable suspicion that the stored data has been obtained illegally and/or infringes the rights of third parties. Reasonable suspicion of illegality and/or infringement of rights shall be deemed to exist in particular if courts, authorities and/or other third parties inform the provider thereof. The provider shall notify the customer immediately of the blocking and the reason for it. The block shall be lifted as soon as the suspicion has been refuted.

6. NOTIFICATIONS

All notifications must be sent in writing to the addresses provided. Transmission by email satisfies the written form requirement. The contracting parties are obliged to notify the other contracting party of any changes of address without delay, otherwise notifications sent to the last address provided in writing shall be deemed to have been received in a legally effective manner.

7. FINAL PROVISIONS

7.1 OFFSETTING

The customer may only offset claims other than their contractual counterclaims arising from the respective legal transaction or assert a right of retention if this claim is undisputed by the provider or has been legally established.

7.2 APPLICABLE LAW

The law of the Federal Republic of Germany shall apply exclusively. The contract language is German.

7.3 PLACE OF JURISDICTION

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

7.4 SEVERABILITY CLAUSE

Should individual provisions or parts of the contract prove to be invalid, this shall not affect the validity of the remainder of the agreement. In such a case, the contracting parties shall amend the contract in such a way that the purpose intended by the invalid or ineffective part is achieved as far as possible.