

Tractime Terms of Service

§ 1 Scope of Application

1.1 These terms of service (hereinafter referred to as "GTC") shall apply exclusively to entrepreneurs, legal entities under public law or special funds under public law within the meaning of Section 310 (1) of the German Civil Code (hereinafter referred to as "Customers"). Any terms and conditions of the customer that conflict with or deviate from these GTC shall only be recognized if the provider sgalinski Internet Services, Bahnhofstr. Gernrode 52, 37339 Gernrode (hereinafter referred to as "Provider") expressly agrees to their validity in writing.

1.2 These contractual terms and conditions shall apply exclusively. Contractual terms and conditions of the customer shall not apply. Counter-confirmations of the customer with reference to his own terms and conditions are expressly rejected.

1.3 Individual agreements made with the customer in individual cases (including collateral agreements, supplements and amendments) shall in any case take precedence over these GTC. Subject to proof to the contrary, a written contract or our written confirmation shall be authoritative for the content of such agreements.

§ 2 Subject of the Contract

2.1 These GTC apply to the use of the Tractime app and the Tractime Trello Power-Up (hereinafter referred to as "Tractime") for integration into Trello boards. The Tractime app can be accessed via the website, <https://app.tractime.eu/>.

2.2 Tractime is operated by the provider as a SaaS solution. The customer is enabled to use the software stored and running on the servers of the provider or a service provider commissioned by the provider via an internet connection for his own purposes during the term of this contract and to store and process his data with its help. The Tractime software remains on the servers of the provider or a service provider commissioned by the provider at all times. The provider does not owe the guarantee of the data connection between the transition point and the customer's IT systems. It is the customer's responsibility to create the technical conditions for receiving the software at the transfer point and using it.

§ 3 Registration, Conclusion of Contract, Term of Contract, Termination

3.1 Registration is required to use Tractime. During registration, the customer is referred to these GTC and must accept them before completing the registration process.

3.2 The contract between the customer and the provider for the use of Tractime is concluded by the customer granting Tractime access to the existing Trello account. The contractual relationship begins on the date of the customer's first login after receiving the confirmation email with the activation link by the provider.

3.3 After successful registration, the customer can use the Tractime Trello Power-Up and is granted access to the Tractime app via the access data for Trello. These access data may not be passed on. The user is responsible for their own safekeeping. Registration under false name and first name, false address, false date of birth and fictitious email accounts is not permitted. In case of obviously fictitious information, the provider reserves the right to delete the account.

3.4 The use of Tractime requires a registration in Trello and the Tractime app.

3.5 The use of Tractime is fee-based.

3.6 The contract is concluded for an indefinite period.

3.7 The contract can always be terminated at the end of the billing period. The termination can be made by email or in writing.

3.8 Both parties reserve the right to extraordinary termination for good cause if the legal requirements are met. An important reason for the provider exists in particular if the customer is more than two months in arrears with the payment of a due fee despite a reminder. If the customer is responsible for the reason for termination, the customer shall be obligated to pay the provider the agreed remuneration less any expenses saved by the provider until the date on which the contract would end at the earliest in the event of ordinary termination.

3.9 After termination of the contract, the provider shall return to the customer all documents provided by the customer and still in the possession of the provider as well as data carriers related to the present contract and delete the data stored by the provider, unless there are retention obligations or rights.

§ 4 Payment

4.1 Payment of the subscription shall be made exclusively to the account specified overleaf. The deduction of a cash discount is only permissible with a special written agreement.

4.2 Payment shall be made monthly. If the contract ends within a billing period, the agreed payment shall only be made on a pro rata basis.

4.3 If the customer delays the payment of a due fee by more than four weeks, the provider is entitled to block the access to Tractime after prior reminder with deadline and expiration of the deadline. The provider's claim to remuneration remains unaffected by the blocking. Access to Tractime will be reactivated immediately after settlement of the arrears. The right to block access also exists as a mitigating measure if the provider has a right to extraordinary termination pursuant to Section 3.8.

4.4 After expiry of the initial term in accordance with the order sheet, the provider may adjust the prices as well as the rates for an agreed remuneration according to the general price development. If the increase in charges is more than 5%, the customer may terminate the contractual relationship at the end of the current contractual month.

§ 5 Availability of the Software, Force Majeure

5.1 The provider draws the customer's attention to the fact that restrictions or impairments of the services provided may arise that lie outside the provider's sphere of influence. This includes, in particular, actions by third parties not acting on behalf of the provider, technical conditions of the Internet that cannot be influenced by the provider, and force majeure. The hardware, software and technical infrastructure used by the customer may also have an influence on the services of the provider. Insofar as such circumstances have an influence on the availability or functionality of the service provided by the provider, this shall have no effect on the contractual conformity of the services provided.

5.2 The customer is obligated to report functional failures, malfunctions or impairments of the software to the provider immediately and as precisely as possible in accordance with the agreements in the order sheet.

§ 6 Service Provision, Support

6.1 The provider shall make Tractime available to the customer for use in the respective agreed version at the router exit of the data center in which the server with the Tractime software is located. The Tractime software, the computing power required for use and the necessary storage and data processing space are provided by the provider. The provider is not responsible for establishing and maintaining the data connection between the customer's IT systems and the transfer point described.

6.2 The provider offers support via email (support@sgalinski.de).

6.3 A support case exists if the software does not fulfill the contractual functions according to the product description.

6.4 If the customer reports a support case, it shall provide as detailed a description as possible of the respective malfunction in order to enable the most efficient troubleshooting possible.

6.5 The parties may enter into a separate agreement on the provision of support, maintenance and care services.

§ 7 Updates

7.1 The provider shall always offer the software in the current version. The provider is not obliged to make the software available during an ongoing update process.

§ 8 Duties of the User, Cooperation

8.1 The customer shall support the provider in the provision of the contractual services to a reasonable extent.

8.2 The customer shall be responsible for the proper and regular backup of its data. This shall also apply to documents provided to the provider in the course of the execution of the contract.

8.3 For the use of the software, the system requirements resulting from the product description must be met by the customer. The customer shall be responsible for this.

8.4 The customer must keep the access data provided to him secret and ensure that any employees to whom access data is provided also do so. The provider's service may not be made available to third parties unless this has been expressly agreed by the parties.

8.5 The customer grants the provider the right to name the customer by name and with the customer logo as a reference for its own advertising purposes for the duration of the contract. This right may be revoked at any time.

§ 9 Warranty

9.1 In principle, the statutory provisions on warranty shall apply. Sections 536b (knowledge of the Tenant of the defect upon conclusion of the contract or acceptance), 536c (defects occurring during the rental period; notification of defects by the Tenant) of the German Civil Code (BGB) shall apply. However, the application of § 536a para. 2 (Tenant's right of self-remedy) is excluded. The application of Section 536a (1) of the German Civil Code (Landlord's liability for damages) shall also be excluded insofar as the standard provides for strict liability.

9.2 In the case of a service provided free of charge, the provider shall not be obliged to remedy defects.

9.3 Warranty claims of the customer shall become statute-barred within one year.

§ 10 Liability

10.1 The contracting parties shall be liable for intent and gross negligence.

10.2 The provider shall be liable for damages of the customer caused intentionally or by gross negligence, which are the consequence of the non-existence of a guaranteed quality, which are based on a culpable breach of essential contractual obligations (so-called cardinal obligations), which are the consequence of culpable injury to health, body or life, or for which liability is provided for under the Product Liability Act, in accordance with the statutory provisions.

10.3 Cardinal obligations are such contractual obligations, the fulfillment of which enable the proper execution of the contract in the first place and the observance of which the contractual partner may regularly rely on, and the violation of which endangers the achievement of the purpose of the contract on the other side.

10.4 In the event of a breach of a cardinal obligation, liability - insofar as the damage is merely due to slight negligence - shall be limited to such damage as may typically be expected to occur when using the contractual software.

10.5 In all other respects, liability - on whatever legal grounds - is excluded.

10.6 If damages to the customer result from the loss of data, the provider shall not be liable for this, insofar as the damages would have been avoided by regular and complete backup of all relevant data by the customer. The customer shall carry out or have carried out a regular and complete data backup itself or by a third party and shall be solely responsible for this.

§ 11 Copyrights of the Provider, Licenses

11.1 Since the Software runs exclusively on the servers of the provider or service providers commissioned by the provider, the customer does not require any copyright usage rights to the Software, nor does the provider grant any such rights. However, the provider grants the customer the non-exclusive, non-transferable and time-limited right for the term of the contract to load the user interface of the software for display on the screen into the main memory of the end devices used for this purpose in accordance with the contract and to make the resulting copies of the user interface and to use the software for the contractual purposes in accordance with the product description. Unless otherwise agreed between the parties, it is not permitted to allow third parties to use the software. Third parties shall also include companies affiliated with the customer.

11.2 All copyrights and other property rights shall remain with the provider.

11.3 The customer may not change or manipulate the Tractime software provided.

§ 12 Data Processing, Data Protection

12.1 The provider shall comply with the statutory data protection provisions.

12.2 The customer grants the provider the right for the purpose of executing the contract to duplicate the data to be stored by the provider for the customer to the extent necessary to provide the services owed under this contract. The provider is also entitled to keep the data in a failover system or separate failover computer center. In order to eliminate malfunctions, the provider shall furthermore be entitled to make changes to the structure of the data or the data format.

12.3 The provider shall regularly back up the customer's data on the server for which the provider is responsible to an external backup server.

12.4 The customer itself is responsible for backups of its own files in the event of a worst-case scenario. The provider is explicitly not liable for any loss of data or damages resulting therefrom.

§ 13 Customer Data, Indemnification from Third Party Claims

13.1 As a technical service provider, the provider stores content and data for the customer, which the customer enters and stores when using the software and makes available for retrieval. The customer undertakes vis-à-vis the provider not to post any content and data that is punishable by law or otherwise illegal in absolute terms or in relation to individual third parties, and not to use any programs containing viruses or other malware in connection with the software. The customer remains the responsible party with regard to personal data and must therefore always check whether the processing of such data via the use of the software is covered by the relevant permissions.

13.2 The customer is solely responsible for all content and processed data used by him as well as any legal positions required for this. The provider does not take note of the customer's content and does not check the content used by the customer with the software as a matter of principle.

13.3 In this context, the customer undertakes to indemnify the provider against any liability and any costs, including possible and actual costs of legal proceedings, if a claim is made against the provider by third parties, including employees of the customer personally, as a result of alleged acts or omissions of the customer. The provider shall notify the customer of the claim and, to the extent legally possible, give the customer the opportunity to defend the asserted claim. At the same time, the customer shall immediately provide the provider with all information available to him regarding the facts that are the subject of the claim.

13.4 Any further claims for damages of the provider shall remain unaffected.

§ 14 Changes

14.1 The provider always aligns Tractime with the respective state of the art and is entitled to adapt and change the offered range of services to technical progress. In doing so, the provider does not have to observe the backward compatibility for third party software. The provider shall announce technical changes in good time, insofar as this is possible and reasonable. Should a technical change be an unacceptable change for the customer, the customer may exercise a special right of termination.

14.2 Amendments to these GTC shall be announced in text form no later than two months before their effective date. Consent shall be deemed to have been given if the customer has not indicated any rejection before the said date of entry into force of the changes.

§ 15 Applicable law, Place of Jurisdiction

15.1 The contractual relationship between the provider and the customer shall be governed exclusively by the laws of the Federal Republic of Germany.

15.2 The exclusive place of jurisdiction for all disputes arising from this contract is our registered office.

In case of discrepancies between the German and the English version of this document, the German version shall prevail. The English text is only a non-binding convenience translation.