

This document is written in German and English. 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.

## General Terms and Conditions (GTC)

### § 1 Contractual Partner

Contractual partners of the contract for the use of the SaaS service "Formtastic" are Formtastic GmbH, located in Amalienstr. 77, 80799 Munich, Germany ("Provider") and the Customer.

### § 2 Subject of the contract

The Provider provides with Formtastic the necessary server infrastructure for the processing, administration and storage of information, within the framework of a service contract according to §§ 611 ff. BGB (German Civil Code) to the Customer.

During the registration process, the Customer accepts the GTC and the contract for commissioned processing, which form an integral part of the GTC.

### § 3 Duties of the Provider

1. The software of the Provider is provided as a cloud computing solution and runs on the data centers of the Provider. The Customer receives a password-secured access to Formtastic.
2. The Provider provides the Customer with the technical possibility to access the service described in § 2 via the WorldWideWeb. The Provider is responsible for the proper operation of the service - not the WorldWideWeb.
3. The accessibility of the Service is 98.50% on an annual average. However, this does not include times when the accessibility is interrupted due to technical or other problems beyond the control of the Provider (e.g. force majeure, fault of third parties, server-side manipulation by third parties through disruptive attacks, failure of API interfaces to third-party providers, maintenance services previously communicated to the Customer in good time, etc.).

### § 4 Duties of the Customer

1. Should there be any disruptions in the use of the servers in accordance with § 3 para. 1 of this contract, the Customer shall notify the Provider of these disruptions immediately by e-mail or telephone.

2. The Customer is obliged to handle the access data according to § 3 para. 1 of this contract with care, not to pass them on and to prevent misuse of the access data by third parties. Unauthorized third parties in the sense of § 4 para. 2 of this contract do not include persons who use the access that is the subject of this contract with the knowledge and will of the Customer. The Customer assures the Provider that it will always provide the Provider in a timely manner with all information required for the successful provision of its service in text form and that no campaigns or content will be stored or posted on the Internet, the provision, publication or use of which violates applicable law or the rights of third parties (in particular, name and trademark law, data protection law or other legal provisions, etc.).
3. The Customer undertakes to indemnify the Provider against claims of third parties of any kind whatsoever resulting from the illegality of content that the Customer has stored on the Provider's servers. The indemnification obligation also includes the obligation to fully indemnify the Provider from reasonable legal defense costs (e.g. court and attorney fees).
4. The Customer commits himself to save his data from the "Formtastic" system via the export function in regular intervals.

## § 5 Blocking of content

If and as far as the Customer stores illegal content contrary to the assurance according to § 4 paragraph 3 of this contract or puts it on the Internet, the Provider will inform the Customer accordingly. In such cases, the Provider reserves the right to block the service or refuse to fulfill its obligation under this contract, to the extent that it is legally authorized or even obliged to do so.

## § 6 Remuneration

The Customer agrees to pay the fee specified in the selected tariff for the use of Formtastic.

## § 7 Payment terms

The specified remuneration will be invoiced to the Customer and will be settled via the selected payment method.

## § 8 Right of Use

The Provider shall transfer to the Customer a simple right of use, limited to the term of the contract and non-transferable, for the purposes described in § 2. This entitles the Customer - for his own purposes - to use the service on the Internet pages operated by the Provider. Any changes within the scope of simple use are prohibited.

## § 9 Warranty and Liability

1. The Provider is not liable for any loss of data that was stored on the servers of Formtastic GmbH.
2. The Provider is liable for damages, except in the case of breach of essential contractual obligations (so-called cardinal obligations), only if and to the extent that the provider, its legal representatives, executives or other agents are guilty of intent or gross negligence. Cardinal obligations are abstractly such obligations, the fulfillment of which enables the proper execution of this contract of use in the first place and on the compliance with which the contractual partners may regularly rely. In the event of a breach of cardinal obligations, the Provider shall be liable for any culpable conduct of its legal representatives, executive employees or other vicarious agents.
3. The aforementioned exclusions and limitations of liability do not apply to damages resulting from injury to life, limb or health, the assumption of a guarantee of quality or fraudulent concealment of defects by the provider, as well as in the case of product liability claims.
4. Claims for damages against the Provider are subject to a limitation period of 12 months from the date on which the claim arose and the creditor becomes aware of the circumstances giving rise to the claim or should have become aware without gross negligence. Excluded from this shortening of the statute of limitations are claims for damages in the sense of the preceding paragraph (3).
5. Insofar as the liability of the Provider is excluded, this also applies to the personal liability of the provider's employees, representatives, partners and vicarious agents.
6. The Provider is not liable under any circumstances for damages resulting from service failures and delays due to unforeseeable events beyond the control of the provider, its legal representatives or its agents (force majeure). Events of force majeure shall include, in particular, war, riots, forces of nature, fire, sabotage attacks by third parties (such as by computer viruses), power failures, official orders, lawful internal company industrial action and the failure or a limitation of performance of communication networks and gateways of other operators.

## § 10 Term, Termination

1. The right to use Formtastic starts after the first registration in the system.
2. The term is unlimited. A cancellation of a paid plan can be done according to the cancellation conditions specified there. The deletion of the account and all data contained in it can be done by the Customer himself at any time, unless a paid tariff is still active.

3. Both parties are entitled to terminate the closed contract at any time without notice for good cause. Good cause shall be deemed to exist in particular if
  - a. the Customer is more than 10 working days in arrears with payments due after receipt of the payment reminder or reminder;
  - b. the Customer has breached material provisions of these GTC (§ 4) or other legal provisions and has failed to remedy the situation within a reasonable period despite a warning. A warning is not required if this does not promise success or the violation is so serious that the Provider is not reasonable to adhere to the contract.
4. In the event of termination, the Provider undertakes to provide all access until the end of the term.

## § 11 Competition

Both parties agree to keep the technical and commercial details of their cooperation confidential in principle. However, both parties are permitted to report in a general manner in general Customer information, brochures, presentations, etc. that a service relationship exists between the parties.

## § 12 Data Protection

1. All data is stored in a certified data center in Germany.
2. The processing of personal data, such as the name, address, or e-mail address of a data subject shall always be in line with the country-specific data protection regulations applicable to Formtastic GmbH.

## § 13 Final Provisions

1. German law is exclusively applicable to the present contract, excluding the reference regulations in international private law. The exclusive place of jurisdiction is Munich.
2. Should individual provisions of this contract be invalid or lose their validity due to a circumstance occurring at a later date, the validity of the rest of the contract shall remain unaffected. The ineffective contractual provisions shall be replaced by a provision that comes closest to the intended purpose.