

Data Processing Agreement

between

Company: _____
Street: _____
ZIP, Town: _____
Country: _____

(hereinafter "Client")

as Data Controller

and

troii Software GmbH, (hereinafter "troii")

as Processor



troii Software GmbH
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Preamble

The Client wishes to engage troii to provide the services cited in Section 3. A portion of the contract execution involves the processing of personal data. Article 28 GDPR in particular imposes certain requirements on such commissioned data processing. In order to comply with these requirements, the Parties conclude the following Agreement, the fulfillment of which is not separately remunerated, unless expressly agreed.

1. Definitions

(1) Pursuant to Article 4(7) GDPR, **Controller** means the body which, alone or jointly with other controllers, determines the purposes and means of the processing of personal data.

(2) Pursuant to Article 4(8) GDPR, **Processor** means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.

(3) Pursuant to Article 4(1) GDPR, **personal data** means any information relating to an identified or identifiable natural person (hereinafter 'data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

(4) Personal data which **requires special protection** is personal data pursuant to Article 9 GDPR which reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership of data subjects, personal data pursuant to Article 10 GDPR relating to criminal convictions and offences or related security measures, as well as genetic data pursuant to Article 4(13) GDPR, biometric data pursuant to Article 4(14) GDPR, data concerning health pursuant to Article 4(15) GDPR, or data concerning a natural person's sex life or sexual orientation.

(5) Pursuant to Article 4(2), **processing** means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

(6) Pursuant to Article 4(21), **supervisory authority** means an independent public authority which is established by a Member State pursuant to Article 51.

2. Indication of the responsible data protection supervisory authority

The responsible supervisory authority for troii is the Austrian Data Protection Authority, Wickenburggasse 8, 1080 Vienna, Telephone: +43 1 52 152-0, Email: dsb@dsb.gv.at.

3. Object of the Agreement

(1) troii provides services for the Client in the area of electronic time tracking and/or electronic mileage logs on the basis of the corresponding license agreement ("main contract") for the timr.com software. In doing so, troii gains access to personal data and processes these exclusively on behalf of and under the instruction of the Client. The scope and purpose of the data processing by troii are specified in the main contract (and in the associated specification of services). It is incumbent upon the Client to assess the admissibility of the data processing.

(2) The Parties conclude this agreement in order to clarify the mutual rights and obligations under data protection law. In case of doubt, the provisions of this Agreement shall take precedence over the provisions of the main contract.

(3) The provisions of this Agreement shall apply to all activities which are related to the main contract and in which troii and its employees, or agents designated by troii, come into contact with personal data originating from the Client or collected for the Client.

(4) The term of this Agreement is based on the duration of the main contract, provided that no further-reaching obligations or termination rights result from the following provisions.

4. Right to issue instructions

(1) troii may collect, process or use data only within the scope of the main contract and in accordance with the instructions of the Client. This applies in particular to the transfer of personal data to a third country or to an international organization. In the event that the law of the European Union or the Member States to which troii is subject obligates troii to perform further processing, troii shall inform the Client of such legal requirements prior to processing.

(2) The Client' instructions are initially determined by this Agreement and can be subsequently changed, supplemented or replaced by the Client in writing or in text form by way of individual instructions (individual instruction). The Client is entitled to issue such instructions at any time. This includes instructions regarding the rectification, erasure and blocking of data.

(3) All instructions which have been issued must be documented by the Client and troii. Instructions that go beyond the services agreed in the main contract will be treated as a request for a change in performance.

(4) In the event that troii believes an instruction issued by the Client violates data protection provisions, troii shall inform the Client without delay. troii is entitled to suspend the execution of the relevant instruction until it has been confirmed or altered by the Client. troii may refuse to perform a manifestly illegal instruction.

5. Type of data processed, data subjects

(1) As part of the performance of the main contract, troii shall have access to the personal data specified in more detail in **Appendix 1**.

(2) The group of **data subjects** affected by the data processing is shown in **Appendix 2**.

6. Protective measures by troii

(1) troii is obligated to observe the statutory provisions on data protection and to ensure that information originating from the Client is not passed on to third Parties, or to suspend their access. Documents and data shall be safeguarded against disclosure to unauthorized persons via measures which take into account the latest technological advances.

(2) Within its area of responsibility, troii will design its internal organization in such a way that troii meets the special requirements of data protection. troii shall take all necessary technical and organizational measures to adequately protect the data of the Client in accordance with Article 32 GDPR, in particular at least the measures listed in **Annex 3** regarding

- a) physical access control
- b) data access control
- c) data usage control
- d) data transmission control
- e) entry control
- f) contractual control
- g) availability control
- h) separation control

troii reserves the right to change the security measures implemented, whereby troii will ensure that the contractually agreed level of protection is maintained.

(3) A company data protection officer has been appointed at troii. troii publishes the contact information of the data protection officer on its website and informs the supervisory authority thereof. Upon request by the Client, troii will demonstrate the publication and notification of this information in suitable manner.

(4) The persons employed by troii to perform data processing are prohibited from collecting, processing or using personal data without authorization. troii shall appropriately obligate all persons (obligation of confidentiality, Article 28 paragraph 3 item b GDPR) entrusted by troii with the performance and fulfillment of this contract (hereinafter referred to as employees) and ensure compliance with this obligation with the attendant due diligence. These obligations must be conceived such that they persist even after the termination of this contract or the employment relationship between the employee and troii. Upon request, the obligations shall be made manifest to the Client in an appropriate manner.

7. troii's obligation to provide information

(1) In the event of malfunctions, suspected breaches of data protection or breaches of troii's contractual obligations, suspicion of security-related incidents or other irregularities in the processing of personal data by troii, by persons employed by troii for processing purposes, or by third Parties, troii shall immediately notify the Client in writing or text form. The notification of the breach of the protection of personal data shall contain at least the following information:

(a) a description of the nature of the personal data breach, where possible stating the categories and the number of data subjects concerned, the impacted categories and the number of personal records affected;

(b) a description of the measures taken or proposed by troii to remedy the infringement and, where appropriate, measures to mitigate their potential adverse effects.

(2) troii shall immediately take the necessary measures to secure the data and to mitigate any possible adverse consequences for the data subjects, inform the Client thereof and request further instructions.

(3) troii is also obligated to provide the Client with information at all times insofar as its data are affected by an infringement according to paragraph 1.

(4) Should the Client's data be endangered by seizure or confiscation, by insolvency or settlement proceedings or by other events or third-party actions, troii shall inform the Client without delay, unless troii is prohibited from doing so by court order or administrative order. In this connection, troii will immediately inform all competent authorities that the decision-making authority over the data lies exclusively with the Client as "controller" within the meaning of the GDPR.

(5) troii shall inform the Client of any significant changes to the security measures pursuant to Section 6 (2) without delay.

(6) troii shall maintain a directory of all categories of processing activities carried out on behalf of the Client which contains all information pursuant to Article 30 paragraph 2 GDPR.

(7) troii shall inform the Client of the respectively required information in a manner suitable to permit the Client to create the directory of procedures.

(8) In the event that troii receives an administrative order to release data of the Client, troii shall - if permitted by law - inform the Client thereof immediately and refer the public authority to the Client.

8. Client's right of verification

With regard to the processing of the data provided by the Client, the Client shall be granted the right of inspection and verification of the data processing facilities at any time, to include via third Parties commissioned by the Client. troii undertakes to provide the Client with the information necessary to verify compliance with the obligations set out in this Agreement.

9. Use of sub-processors

(1) The contractually agreed services or the partial services described below shall be performed with the involvement of the sub-processors listed in **Annex 4**.

(2) Sub-processors within the meaning of the GDPR are only those which process personal data pursuant to Annex 1 of data subjects pursuant to Appendix 2.

(3) As part of its contractual obligations, troii is authorized to establish further subcontracting relationships with sub-processors ("sub-processor relationship"). troii will inform the Client thereof forthwith. The information is sent via email to the account owner.

(4) troii is required to carefully select sub-processors on the basis of their suitability and reliability.

(5) In the event that sub-processors in a third country are to be engaged, troii shall ensure that the relevant sub-processor implements an adequate level of data protection (e.g., by concluding an agreement based on EU standard data protection clauses). Upon request, troii shall demonstrate to the Client the conclusion of the aforementioned agreements with its sub-processors.

(6) A sub-processor relationship within the meaning of these provisions does not exist in the event that troii entrusts third Parties with services deemed to be ancillary services. These include e.g. postal, transport and shipping services, cleaning services, telecommunication services without specific reference to services that troii performs for the Client, and security services. Maintenance and testing services constitute sub-processor agreements which are subject to approval, insofar as these are provided for IT systems that are also used in connection with the provision of services for the Client.

10. Requests und rights of data subjects

(1) troii shall, to the extent possible, use suitable technical and organizational measures to support the Client in fulfilling its obligations under Article 12-22 as well as 32 and 36 GDPR.

(2) In the event that a data subject asserts rights directly against troii, e.g. regarding the provision of information, rectification or deletion with respect to his data, troii shall not personally respond but rather immediately refer the data subject to the Client and wait for the Client's instructions.

11. Liability

(1) Within the scope of the contractual relationship with troii, the Client is solely responsible vis-à-vis the data subject for the compensation of damages suffered by a data subject as a result of inadmissible or inaccurate data processing or use under the data processing agreement.

(2) The Parties shall mutually release each other from liability if a Party proves that it is in no way responsible for the circumstances in which the damage occurred to a data subject.

12. Extraordinary right of termination

(1) The Client may summarily terminate the main contract in whole or in part in the event that troii does not fulfill its obligations under this contract, intentionally or grossly negligently violates provisions of the GDPR, or cannot or will not execute an instruction issued by the Client. In the case of simple breaches, i.e., those which are neither intentional nor grossly negligent, the Client will grant troii a reasonable period within which troii can bring the infringement to an end.

13. Termination of the main contract

(1) All data provided to troii can be downloaded independently by the Client at any time. Following the termination of the main contract, upon request by the Client troii will erase this data immediately unless there is an obligation to store the personal data under EU law or the law of the Republic of Austria.

(2) Following the termination of the main contract, troii may, at any time and without further request thereto, delete any data provided to troii after the expiry of a period of 48 days.

(3) troii is furthermore obligated to maintain the confidentiality of the data disclosed to it in connection with the main contract beyond the end of the main contract. This Agreement shall survive the end of the main contract for as long as troii possesses personal information which was supplied to troii by the Client or which troii collected on behalf of the Client.

14. Obligation to maintain confidentiality and secrecy

(1) Both Parties undertake, without time limitation, to treat as confidential all information they receive in connection with the performance of this Agreement or the main contract and to use it solely for the performance of the contract and the main contract.

(2) Neither Party shall be entitled to use this information, in whole or in part, for purposes other than those stated in the main contract or to make such information available to third Parties. The aforementioned obligation does not apply to information which one of the Parties has demonstrably received from third Parties without being under obligation to maintain secrecy, or to information which is publicly known.

(3) troii warrants that troii is aware of the applicable data protection regulations and that troii is familiar with their application.

(4) troii warrants that troii has familiarized its employees with the privacy provisions applicable to them and that its employees are bound to maintain confidentiality. In addition, troii warrants that troii has, in particular, committed the employees involved in the performance of the work to confidentiality and has informed them of the instructions of the Client.

(5) This obligation shall also exist following the end of the employees' work at the company.

(6) Upon request, the employees' obligation under paragraph (4) shall be demonstrated to the Client.

15. Final provisions

(1) The Parties agree that the assertion of the right of retention by troii with respect to the data to be processed and the associated data media is excluded.

(2) Amendments and additions to this Agreement must be made in writing. This also applies to the waiver of this formal requirement. The priority of individual contract agreements remains unaffected.

(3) Should individual provisions of this Agreement be or become wholly or partially invalid or unenforceable, this shall not affect the validity of the respective remaining provisions.

(4) This Agreement is governed by Austrian law. The exclusive place of jurisdiction is Ried im Innkreis.

Appendix:

Appendix 1 – Description of data/data categories

Appendix 2 – Description of data subjects/categories of data subjects

Appendix 3 – Technical and organizational measures by troii

Appendix 4 – Authorised sub-processors

For the client

(Place, Date) (Signature, Signee function)

For troii

Braunau am Inn, 12.11.2020

(Place, Date)



(Signature, Mario Breid, CEO)

Appendix 1

Description of data/data categories

Employee data: Firstname, Lastname, Email, Date of joining, Resigned Date, Personal Number, Work schedule model, Break model, Holiday Calendar

Employee Working times: Working time type, Time of start and end, Notes, optionally GPS Position at Start and End

Employee Project times: Task, Time of start and end, Notes, optionally GPS Position at Start and End

Employee car rides: Car, Time of start and end, Start Odometer, End Odometer, Purpose, Visited, Route, optionally GPS Position at Start and End, in Tour optionally GPS Track of the whole trip

Task data: Tasks enable customers to add any work-structure based on their own data. In most cases, a task structure consists of customer-, project- and task name.

In addition it is possible to configure custom fields.

Adding personal data which requires special protection according to §1 (4) is not intended or recommended.

Appendix 2

Description of data subjects/categories of data subjects

Client's employees
Client's vendors
Client's customers

Appendix 3

Technical and organizational measures by troii

See <https://www.timr.com/en/p/toms>

Appendix 4

Authorised sub-processors

The following companies are authorised sub-processors (§ 9):

Sub-processor	Tasks	Place of dataprocessing
Hetzner Online GmbH Germany	Hosting Backend and Database	Germany (EU)
Amazon Web Services EMEA SARL Luxembourg	Email Distribution	Germany (EU)
Google Ireland Ltd Ireland	Logging Error Monitoring	Germany (EU)