



## Terms of Use

As of: 10/01/2019

### Important Notice

Kivito offers Hosted Virtual Desktops (HVD) for business use as virtual desktop workstations for businesses - Desktop as a Service (DaaS). The name of the Desktop as a Service service is Kivito deskMate. The use of Kivito deskMate is subject to the terms of the following agreement.

### Welcome to Kivito's deskMate!

Thank you for using our products and services ("Services"). The services are provided by Kivito GmbH, Eberhardstr. 65, 70173 Stuttgart, Germany.

This document constitutes an agreement between the user of Kivito deskMate and Kivito GmbH. The agreement also covers companies affiliated with Kivito GmbH.

Kivito refers to the services and programs offered by Kivito GmbH under the domains operated by Kivito GmbH (Kivito.com, Kivito.de, tocar.io, deskmate.de, getdeskmate.de etc.) and their sub-domains as well as aliases.

You agree to use Kivito deskMate only in accordance with the following terms and conditions. Use of the Services requires that you agree to these Terms of Use. Please read these carefully.

### Using our services

Kivito deskMate is offered as a paid platform for virtual desktop workstations as part of a business use. Kivito GmbH provides virtual desktop hardware via a patented process. The participation in, or responsibility for, the operating systems, software and data installed on the virtual hardware does not take place by Kivito GmbH.

The fees for the use of Kivito deskMate are mentioned in the license overview on the Kivito.com website and are considered as binding. You are due for payment in advance for the entire booked period in advance and can be paid with the payment method specified there. Kivito GmbH can send invoices and payment reminders via e-mail. If a fee cannot be collected, the user bears all resulting costs and is excluded from further use of the service until the outstanding sum has been paid.

The use of our services may only be carried out within the scope of the offered possibilities and the applicable guidelines. All other uses require the prior written consent of Kivito GmbH. Do not misuse our services in an abusive manner. For example, you may not interfere with the Services or access the Services in any manner other than through the interface provided by Kivito and as directed by us. You may use our services only to the extent permitted by law. This includes the legal provisions on export and re-export control. We may suspend or discontinue the provision of our services to you if you violate our Terms of Use or policies or if we investigate suspected misconduct.

By using our services, you do not acquire any copyright or intellectual property rights in our services or the content you access. You may not use content from our services unless you have the consent of the copyright holder or are otherwise authorized to use it. These Terms of Use do not grant you the right to use any of the trademarks, trademarks or logos used in our services. Legal notices displayed in or in connection with our services may not be removed, defaced or altered.

The customer agrees with the use of Kivito GmbH as a reference customer, also in electronic and printed form, to be called free of charge for internal and external marketing activities. If you want to object to this entry please send a short mail to [us](mailto:us).

The user accepts that a 100% fail-safe provision of applications and services is not possible and events of internal (eg maintenance, security) and external (eg power outages, power failures) nature is prevented. This also applies to the services of Kivito GmbH. The Kivito GmbH strives, however, for the services offered to achieve the highest possible reliability and constant availability. Further details are in our [Service Level Agreement](#) regulated.



We are constantly changing and optimizing our services. For example, we may add or remove features or features, or introduce additional or new restrictions on our services, taking into account their respective interests. Kivito GmbH therefore reserves the right to make adjustments to the services offered and to offer other services if this is reasonable for the user.

## Software in our Services

If the use of any service requires or includes downloadable software, this software may be automatically updated on your computer as soon as a new version or feature becomes available. For some services, you can adjust the settings for the automatic update.

Kivito GmbH grants you the personal, worldwide, free, non-transferable and non-exclusive right to use the software provided by Kivito deskMate within the scope of the services. This license is solely for the purpose of enabling you to use the services provided by Kivito deskMate in accordance with the Terms of Use set forth herein. You may not reproduce, modify, distribute, sell or rent any part of our services or the software contained therein. In addition, you must not reverse engineer this software or attempt to extract its source code. Exceptions apply only if these are legally permitted or you have a written consent from Kivito GmbH.

Open source software plays an important role for us. Part of the software used in our services may be subject to an open source license, the terms of which we provide to you. The Open Source License may contain provisions that specifically address some of the provisions of these Terms of Use.

## Rights and Duties of the

User You are permitted to use Kivito deskMate for your own purposes.

To use the service, the user is required to create a user account (hereinafter "Registration"). The registration offers the possibility to test the service free of charge for a limited period of time and is the basis for the use of the paid services.

Upon completion of the registration process you make an offer to conclude the contract for the use of Kivito deskMate. Kivito GmbH accepts this offer by activating your user account. Through this assumption the contract between you and the Kivito GmbH comes about.

To be able to register as a user, you must provide information about your real person and give it truthfully. We recommend that you keep your password secret to prevent abuse. Each user may register only once and create only one user profile. A registration via a non-existent person (alias) or a deliberate concealment of the identity leads to an immediate blocking of the account.

Please note that you are responsible for all your activities on the service offered. Any kind of responsibility of Kivito GmbH is excluded.

You are required to comply with all applicable laws and licensing regulations throughout your use of Kivito deskMate, especially when installing and using software and operating systems. In addition, and regardless of the legal situation, you are not permitted to use the service to: distribute

- content that is pornographic, vulgar, obscene, abusive, harmful, defamatory, harassing, threatening, hateful, racist, or otherwise objectionable;
- harass other users with the mass content (especially SPAM)

Furthermore, the following acts are prohibited to all users:

- Kivito deskmate or elements of them or by third parties to rent, lease, sublicense, loan, sell, transfer, copy, modify, adapt, associate, translate, translate into another programming language, reverse engineer, decompile, or create derivative works of the Software, except as expressly provided in this Agreement is permitted by mandatory law.
- Unless otherwise expressly permitted by this Agreement, Kivito desksmate or any elements thereof in any manner whatsoever or in any manner whatsoever or in any way allows third parties to do so.



- Kivito deskMate or elements thereof with mechanisms, scripts or other software (eg robots or crawlers) to drive, which are not necessary for a proper use of the platform. However, this does not affect the use of interfaces and software that Kivito deskMate provides for programmatic access (eg APIs).
- Any activity that interferes with or unduly burdens the functionality and / or infrastructure of Kivito deskMate.

If you notice that other users are using Kivito deskMate in a manner contrary to the law or the contract, you can this via the [contact form](#) on the platform.

## Term and termination

The service can be canceled at any time during the free trial period without giving reasons. To terminate the account, delete function must be used in the profile of the user. After termination, all content posted by the user on the test environment can be deleted by Kivito GmbH.

The paid services are offered as part of a subscription. The booked minimum usage period will be extended by one period of the same period if the user does not cancel the subscription on time. Termination can be made without notice at the end of the current period without giving reasons. To terminate the account, delete function must be used in the admin area of the user. After termination, all content posted by the user can be deleted by Kivito GmbH.

Termination for good cause is available to both parties in both paid and non-paid services. An important reason exists if, in consideration of all circumstances of the individual case and weighing the interests of both parties, the terminating part cannot reasonably be expected to continue the contractual relationship until the agreed termination or until the expiry of a period of notice. Important reasons exist in particular, if:

- the user does not comply with legal regulations
- the user violates points of this agreement
- the user other users or damages the platform

On presentation of an important reason, the Kivito GmbH reserves the right to warn the user, contents of User and to block the access of the user.

The user's entitlement to the repayment of fees paid in advance lapses if Kivito GmbH has to take measures resulting from the submission of good cause.

## Warranty and Liability

Our services are left to use as they are. There is no warranty or guarantee of any kind.

In particular, we make no representations or warranties or representations regarding specific functionalities of the Services or their reliability, quality, availability or suitability of the Services for purpose. Kivito GmbH is not liable for any errors, including any necessary services, repairs or adjustments.

You agree to be legally binding for your company or your users with the validity of these Terms of Use. The Company indemnifies and holds Kivito GmbH and its affiliates, employees, agents and employees free from any lawsuits or claims arising out of or in connection with the use of the Services or any breach of these Terms of Use, including any claims and claims Costs due to lawsuits, losses, damages, lawsuits and judgments, and court and attorney's fees. This applies in particular to cases in which the user violates the rights of other third parties. In these cases, the user assumes the costs incurred by Kivito GmbH, including the costs incurred for legal defense.

If a user violates the rights of third parties through his usage behavior, he will stop using the law and / or contractually adverse use immediately upon request by Kivito GmbH.

## Privacy and copyright protection

Kivito deskMate allows you to post content. You retain your rights as the author and all existing intellectual property rights in the content you post in our services. In short, what's yours is yours too.



We will use this content solely for the purpose of providing the service and only to the extent necessary. In order for Kivito GmbH to be able to offer you the service securely and available, for example, the contents must be stored encrypted and hosted on servers. The right of use therefore includes in particular the right to reproduce the contents technically. For us, the security and protection of your data is particularly important. Therefore, we operate a high technical effort to encrypt your data and redundant store.

The personal data requested during the use of the platform are collected exclusively in order to enable the services of Kivito deskMate subject to registration. Collection, processing and use of data are carried out in compliance with the Federal Data Protection Act. In no case will these data be made available to third parties for marketing or advertising purposes.

As part of a continuous improvement of the services offered, anonymised data on the use of the platform is collected, stored and evaluated. This is taken over by the Kivito GmbH itself or commissioned service providers, including the web analytics service Google Analytics of Google Inc. The user agrees to this procedure.

Some of the publicly accessible pages of the platform (eg the home page at Kivito.com) contain third-party program components (eg Facebook Inc.) through which the user can interact with the third-party page (eg Facebook's "Like" button). , The data exchange that takes place is not within the sphere of influence of Kivito GmbH. The user agrees to this procedure.

## Final

Provisions This document constitutes the entire agreement between Kivito deskMate and the user and Kivito GmbH and supersedes any prior oral or written representations, agreements or conventions in relation to the product or service.

Any ineffective provisions of these agreements are replaced by identical provisions. The remaining agreements remain effective in every case.

Kivito GmbH may amend this agreement or any additional conditions at any time. Kivito GmbH undertakes to inform the user in good time about the change. If the user does not object to the amended agreement within 14 days, the amended agreement will be deemed accepted.

The user agrees that Kivito GmbH may send messages to him by e-mail, regular mail or messages on the website Kivito.com, including messages related to changes of the regulations.

The provisions of this agreement, insofar as they refer to third-party suppliers, subsidiaries, subsidiaries and sister companies of Kivito GmbH, are directly applicable for third-party suppliers, branches, subsidiaries and sister companies of Kivito GmbH.

The exclusive place of jurisdiction for all disputes arising from or in connection with these Terms of Use is Stuttgart.

These Terms of Use and any dispute arising out of or in connection with these Terms of Use shall be governed by German law, excluding the UN Sales Convention.

**Your trust is important to us. Therefore, we would like to be your answer at any time regarding the processing of your personal data. If you have any questions that this Privacy Policy could not answer or if you would like more in-depth information, please contact us at any time ([info@Kivito.com](mailto:info@Kivito.com))**

