

Dedicated Server Services Regulations

§ 1

General Provisions

1. These Regulations (hereinafter: "Regulations") set out the general terms and conditions of paid use of the dedicated servers intended for exclusive use by the customer that purchases the service (hereinafter: "Service").
2. The Service is provided by Atman with its registered office in Warsaw at ul. Grochowska 21a, entered in the Register of Entrepreneurs kept by the District Court for the capital city of Warsaw in Warsaw, 13th Commercial Division of the National Court Register under number KRS 0000034947 (hereinafter: "Atman").
3. The Service is intended solely to entrepreneurs, i.e. entities entered in the statutory registers and holding VAT and REGON numbers.
4. An entrepreneur that uses the Service (hereinafter: "Customer") accepts the wording of the Regulations and agrees to observe thereof.
5. The use of the Service is charged according to Agreement 1 to the Agreement. In the case of the Services ordered by the Customer online, the use of the Services is paid according to the pricelist posted on the website of Atman (hereinafter: "Pricelist"). An amendment to the Pricelist does not constitute an amendment to the Regulations.
6. The technical parameters of the Service are set out in the Detailed Attachment to the Agreement – "Dedicated Server Service Technical Parameters and SLA". In the case of the Services ordered by the Customer online, the technical parameters of the Service are set out in "Dedicated Server Service Technical Parameters and SLA" posted on the website of Atman. An amendment to the SLA does not constitute an amendment to the Regulations.
7. Atman guarantees high quality of the Service. In the event of Atman's failure to meet the guaranteed quality of the Service, the Customer may charge the contractual penalties set out in "Dedicated Server Service Technical Parameters and SLA".
8. The Customer acknowledges that it does not have physical access to the server used as part of the Service. The Customer may only access the server remotely and is the exclusive administrator of such server.

§ 2

Conclusion and Termination of the Agreement

1. The condition precedent for using the Service is registration consisting in providing actual data of the Customer, in particular its business name, address data, tax identification number, and configuration of the Service in accordance with the procedure for purchasing the Service specified in online registration forms.
2. In the event of a change of the data provided during registration, the Customer is obliged to immediately update them. All correspondence sent to the Customer at the last address given will be deemed duly delivered.
3. Atman may request from the Customer documents confirming the data provided thereby during registration or the data subsequently updated. The Customer is obliged to send the documents indicated by Atman when and in the form specified in the request addressed to the Customer.
4. The settlement period is the month starting and ending on the dates indicated by Atman on the invoice ("Settlement Period"). In the event that the Service is provided for less than a full Settlement Period, the fee for the Service is charged proportionally to the number of days when the Service was provided in the given Period. In particular, an invoice may include a fee for a Settlement Period longer than one month in the case of payment of fees rounded up to a full calendar month.
5. In the invoiced issued, Atman may charge fees for the Services performed in the preceding Settlement Periods, if they were not charged yet.

6. Monthly fees for the Service will be invoiced in advance and paid by the Customer by an online payment system specified by Atman or by a transfer to the bank account specified on the invoice, within 14 days of issue of the invoice by Atman, under the pain of statutory default interest.
7. In the case of Services ordered by the Customer online, invoices may be preceded by pro forma invoices. In this case, Atman will issue and provide the Customer with a VAT invoice for the purchased Service after payment by the Customer.
8. One-off fees will be payable by the Customer within 7 days from the date of signing the Protocol. In the case of the Services ordered by the Customer online, one-off fees will be charged on a pro forma invoice referred to in § 2.7 above. If, within 5 days from the date of launching the Service, the Customer fails to submit a complaint due to non-functioning or malfunctioning of the Service, the Service shall be deemed to be launched, operational and technically efficient.
9. The payment date is the day on which the funds are credited to the Atman account.
10. In the case of the Services ordered by the Customer online, the Service will be activated after the Customer has made payment for the first settlement period, on the date specified during the Service purchase procedure.
11. In the case of the Services ordered by the Customer online, the Agreement will be concluded after the Customer has submitted a statement on accepting the Regulations, Price List and Attachment "Dedicated Server Service Technical Parameters and SLA", paid for the first settlement period, and after Atman configured the Service.
12. In the case of the Customers who use a third-party software made available by Atman for consideration, the terms and conditions for use of such software (hereinafter: "Terms and Conditions") are attached to the Regulations and are accepted by the Customer at the purchase of the Service. An amendment to the Terms and Conditions does not constitute an amendment to the Agreement and the Regulations. The Customer is obliged to inform Atman when concluding the Agreement, and also every year until the end of January of a given year, about the number of own licenses used by the Customer and the number of users registered on the server.
13. In the event that the Customer fails to pay for the Service when specified on the invoice, the Service will be suspended after a prior demand for the Customer payment. The Customer's data will be retained in the system for 14 days after turning off the Service in order to enable the Service to be reactivated. Thereafter, the Service will be turned off.
14. The Agreement may be concluded for definite or indefinite term. The term of the Agreement for specific Services is set out Attachment 1 to the Agreement – "Technical specifications with the list of fees for the Services" and in the case of Services ordered by the Customer online depends on the content of the statement submitted by the Customer during the Service purchase procedure. When the term of the Agreement concluded for definite time lapses, the Agreement automatically extends for the subsequent 12-month definite term determined in "Technical specifications with the list of fees for Service", and thereafter for a subsequent 12-month period, unless either party to the Agreement delivers a written statement to the other party that it does not intend to continue the Agreement or convert it into an indefinite-term Agreement, one month prior to the end of the then current term.
15. In the case of the Services ordered for indefinite term, as well as in the case that the Agreement is extended for indefinite term, either Party may terminate the Agreement upon a 1-month notice with effect as at the end of the Settlement Period.
16. The Agreement (as well as in the case of the Services orders by the Customer online) may be terminated, subject to § 2.14 and § 2.15:
 - a. upon mutual agreement of the parties or
 - b. if the party wishing to terminate the Agreement pays the other party compensation equal to the total sum of the fee which would have been due until the end of the term of the Agreement, if the Agreement had not been terminated early.

17. Atman may terminate the Agreement without notice, if:
 - a. the Customer fails to pay the fees due to Atman for the provision of the Service, within the period specified in the VAT invoice;
 - b. the Customer breaches the provisions of the Agreement, these Regulations and all attachments.
18. the Customer may terminate the Agreement without notice, if:
 - a. Atman breaches the provisions of these Regulations;
 - b. continuous interruption in the provision of the service lasting more than 5 days for reasons attributable to Atman.
19. In the cases referred to in § 2.17.a – § 2.17.b., the Customer is obliged to pay compensation to Atman in the amount calculated in accordance with the procedure and in accordance with § 2.16.b.
20. VAT invoices will be delivered to the Customer only in electronic form by sending an e-mail to the e-mail address indicated by the Customer informing that the invoice is available in the portal provided by Atman to the customers for the Service. By accepting these Regulations, the Customer agrees that invoices be made available electronically.
21. Any statements on termination of the Agreement, termination of the Agreement without notice or lack of intention to continue the Agreement are required in writing under the pain of nullity. The Customer may resign from the Services ordered online also by submitting a statement to the Atman Customer Service Office.

§ 3 Liability

1. The Customer bears full liability for the Content, which should be understood to include any wording, information, files or applications posted by the Customer on the server made available within the Service (hereinafter "Content") and the manner in which the server made available within the Service is used, as well as for the accuracy of the representations made according to § 3.5 below.
2. The Customer bears full liability for the way the Service is operated, i.e. adherence to the specification provided by Atman in Attachment "Technical Parameters and for Dedicated Server Service SLA Parameters". The Customer shall not install any data transmission equipment on the servers.
3. The Customer bears full liability for the consequences of changes made by the Customer in the BIOS or FIRMWARE configuration of the equipment made available to the Customer. If the Customer inflicts damage to the servers as a result of its use of the servers in the manner incorrect and inconsistent with the Agreement, Atman has the right to charge the Customer with a contractual penalty in the amount equivalent to the value of the damaged server.
4. The Customer undertakes to exercise due diligence so that third parties using the functionality and services offered by the Customer using the server made available within the Service, comply with the provisions of the Regulations contained in § 3.5 below which apply to the Customer.
5. The Customer warrants and represents that the Content placed thereby on the server:
 - a. does not infringe any third-party rights, including any copyrights, rights to trademarks, trade secrets or personal interests;
 - b. does not breach the laws in force and generally accepted moral norms;
 - c. will not be offensive and will not contain threats directed to third parties;
 - d. will not contain racist wording or wording encouraging to join a sect;
 - e. does not contain viruses or other computer software/tools that aim to cause damage, capture data, breach security or destabilize computer systems or networks;
 - f. will not be used to send spam;
 - g. will not contain applications for attacking or hacking other servers using such techniques as: port scanning, sniffing, spoofing;
 - h. will not contain direct or indirect links or any redirects to the Content:

- which is prohibited under the Regulations;
 - with respect to which the Customer has no right to place links or redirects.
6. Atman reserves the right to remove or block Content that breaches the Regulations, using all necessary technical measures, including disconnection of the entire server.
 7. Atman reserves the right to use tools that will protect against any breach of the Regulations.
 8. Atman is not liable for technical problems or technical limitations of the computer software installed on the server used by the Customer (firewalls – blockades, improper configuration, anti-virus software and others) that prevent the Customer from using the Service.
 9. Atman shall not be liable for:
 - a. damage inflicted by incorrect use by the Customer of the Service or use contrary to the provisions of the Regulations;
 - b. any problems in the functioning of the Service, if they occurred as a result of events that Atman was not able to foresee or prevent despite exercising due diligence, in particular in the event of problems with the functioning of the Service related to the quality of services provided by telecommunications operators, loss of passwords assigned to the Customer and force majeure events;
 - c. the Content placed by the Customer or third parties on servers provided as part of the Service;
 - d. loss of data due to failure of equipment, system or other circumstances independent of Atman.
 - e. changes made by the Consumer to the IPMI console and the consequences of such changes;
 - f. damage arising in the event that the Customer provides a remote IPMI console, server access passwords or the Customer's portal to third parties;
 - g. any problems resulting from the installation of hardware virtualization systems that Atman did not perform;
 - h. any consequences of changes made by the Customer in the BIOS or FIRMWARE configuration of the equipment made available to the Customer.
 10. The contractual penalties that the Customer is entitled to from Atman for failure in the performance of the Service are set out in "Dedicated Server Service Technical Parameters and SLA" and shall be offset from the fees due for the Service from the Customer for the next settlement period, and in the event of termination of the Agreement – shall be paid based on an accounting note.
 11. The contractual penalties set out in the "Dedicated Server Service Technical Parameters and SLA" are the full liability of Atman for non-performance or improper performance of the Service. Any liability of Atman for lost benefits and indirect damage is hereby excluded.
 12. The maximum amount of contractual penalties (rebate) for the Atman Dedicated Server Service on a monthly basis may not exceed one-fold of the monthly fee for the provision of this Service, and on an annual basis may not exceed three-fold of the monthly fee for the provision of the Service. The contractual penalties set out in the Agreement are the full liability of Atman for non-performance or improper performance of the Service.
 13. The Parties are not liable for non-performance or improper performance of the Service due to force majeure.

§ 4

Obligations of Customer

1. The Customer shall inform Atman of loss of passwords, if any, assigned to the Customer to use the Service, within 24 hours.
2. If any third parties raises claims against Atman related to the Customer's use of the server, the Customer shall take all necessary steps to defend Atman against such claims. In particular, the Customer shall immediately provide explanations to the claimant, provide Atman with legal assistance, proceed with the proceeding alongside or in place of Atman and release Atman from all claims, as well as refund the incurred legal assistance costs and other expenses related to the dispute.
3. The Customer shall not to make any modifications and changes to the Services that could affect the quality of their provision in the Services without the consent and supervision of Atman.

4. The Customer shall not to disclose any information it acquired during the performance of the Agreement, and shall keep in secret any information concerning technical and organizational safeguards of the locations where the Service is performed. The above will also apply to employees of the Customer and other persons who assist the Customer in connection with the Agreement. In addition, Atman warrants and represents that in the area of information security, Atman applies to provisions developed under the Information Security Management System ISO / IEC 27001.
5. If, in connection with the provision of the Services, Atman provides the Customer with the equipment necessary for their proper performance, it shall remain Atman's property for the entire term of the Agreement and will be uninstalled by the Atman after the termination or expiry of the Agreement at Atman's cost. After the termination of the Agreement, the Customer shall make the equipment available, uninstall or return it within 5 business days of the request by Atman. In the event of a delay in the performance of the above obligation due to the fault of the Customer, the Customer will pay to Atman a contractual penalty in the amount of PLN 1000 net. Payment of the above the contractual penalty does not release the Customer from the obligation to return the equipment. If the Customer fails to return the equipment, despite an additional demand to return the equipment issued by Atman, the Customer is obliged, based on Atman's demand, to pay the amount to cover replacement costs of the same equipment as the one made available.
6. By making the payment for the first invoice, the Customer declares that he accepts the Dedicated Server Services Regulations along with the price list, SLA parameters and the duration of the Order.
7. In the event that the Customer does not fulfill his obligations in terms of payment or the method of using the Service, Atman has the right to suspend the provision of the Service until the Customer takes steps to comply with the Agreement. The period of suspension of the Service provision is included in the term of the Agreement. The Customer is obliged to pay monthly fees for the period in which the provision of the Services was suspended due to his fault.

§ 5

Obligations of Atman

1. Atman undertakes to provide the Customer with tools and documentation of the Service via websites dedicated to the Service, in particular:
 - a. documentation;
 - b. tools and interfaces describing the current status of the server infrastructure owned by Atman;
 - c. tools enabling remote monitoring and management of the server, in particular its restarting;
 - d. contact details of the technical department, contact details concerning additionally paid services and interventions.
 - e. information on the degree of use of limited services, in particular transfer limits.
2. If Atman detects that the server provided to the Customer has been hacked, the Customer will receive an e-mail message indicating that the reinstallation procedure should be started to maintain the integrity of the server and the entire platform. The Customer may perform this procedure after saving all its data. Atman reserves the right to interrupt the connection of the server to the Internet while waiting for the server to be reinstalled. Atman does not deal with the transfer of data from the hacked system to the new system. This operation must be performed by the Customer. Atman undertakes to install a new system and limits its intervention to this. Atman is not liable for making any copies of data from the hacked system to the new system.
3. Atman agrees to remedy failures and respond to technical problems reported by the Customer in accordance with the SLA terms and conditions applicable to the given service.
4. Failure and technical problems should be reported to the Atman Customer Service Office. The contact details and the manner of failure reporting as available at www.atman.pl

5. Atman has procedures for measuring and organizing network traffic involving cooperation with infrastructure providers – for services provided using the network of another operator, and internal procedures consisting, in particular, in the management of data transmission and management of the infrastructure and equipment used to provide services, including Internet access services, preventing the connection being saturated in such a way that prevents the Customer from using the declared capacity of the link. In the case of saturating a connection that prevents the Customer from using the declared capacity of the link, a link failure may occur.
6. Atman does not impose restrictions on the access or use of the Services and applications provided under this Agreement, subject to the actions that Atman is entitled to take in connection with events of breach of security and integrity of the network.
7. In the event of a breach of the security or integrity of the network or the Services, Atman in consultation with the Customer shall immediately take steps to minimize any possible damage and restore the proper functioning of the Services. Atman will inform the Customer by e-mail about the measures taken in terms of the security of the Services and on the risks related to the provided Service.
8. If, in connection with the provision of the Services, Atman provides the Customer with the equipment necessary for their proper performance, it remains Atman property for the entire term of the Agreement and will be uninstalled by the Atman after the termination or expiry of the Agreement at Atman's cost.

§ 6

Complaints

1. The Customer may lodge a complaint regarding non-performance or improper performance of the Agreement, failure to meet the deadline for the conclusion of the Agreement, deadline for launching the Service set out in the Agreement or improper calculation of the fees due for the provision of the Service, due to the fault of Atman, by sending it electronically to the e-mail address at servicedesk@atman.pl
2. The complaint may be lodged within 12 months from the last day of the Settlement Period in which the event subject to complaint occurred. Any complaint lodged after the expiry of this period will not be reviewed, which will be immediately notified by the Atman to the Customer.
3. The day of lodging the complaint shall be the day on which Atman receives the electronic message containing the complaint.
4. The complaint should include:
 - a. full name, name and address of the registered office of the Customer;
 - b. the subject of the complaint and the advertised Settlement Period;
 - c. the circumstances underlying the complaint;
 - d. the number of the Agreement to which the complaint relates, or the Customer's reference number, assigned to the Customer;
 - e. the date of conclusion of the Agreement and the date of launching the Service defined therein – in the case when the subject of the complaint is failure to meet the deadline of launching the Service due to the fault of Atman;
 - f. the amount of compensation or other receivables resulting from the Agreement – if the Customer requests their payment;
 - g. signature of the complainant – in the case of a complaint submitted in writing.
5. Atman confirms the acceptance of a complaint within 14 days from the date of submission, unless it replies to the complaint within that time limit.
6. In the event that the complaint does not meet the conditions set out in sec. 4 above, an authorized person representing Atman accepting a complaint is obliged, if it deems it necessary to properly process the complaint, to immediately inform the Customer about the necessity to supplement it. Complaints that are not completed are not reviewed.
7. Atman will review the complaint within 30 days of submission. By reviewing a complaint, it is understood that Atman will send a response to a complaint to the Customer on or before the lapse of the said period.

If the complaint is not reviewed within 30 days from the date of submission, it is considered that the complaint has been accepted.

8. The response to the complaint includes:
 - a. name of the Atman unit reviewing the complaint;
 - b. information about the day of lodging the complaint;
 - c. the decision on recognition or refusal to accept the complaint;
 - d. in the event of the award of the right to a contractual penalty – the amount and time of its crediting towards future payments or its payment;
 - e. instruction on the exhaustion of the complaint procedure and the right to pursue claims in court proceedings;
 - f. data identifying the authorized Atman employee, including the full name and position held thereby.
9. In the event of refusal to accept the complaint in whole or in part, the response to the complaint should additionally contain factual and legal reasoning and should be provided to the Customer electronically.
10. Atman confirms the acceptance of the complaint and responds to the complaint in electronic form to the Customer's e-mail address indicated in the Agreement or using another address indicated by the Customer. If the Customer does not provide an e-mail address, Atman confirms the acceptance of the complaint and responds to the complaint to the e-mail address from which the complaint was sent to Atman.
11. If the response sent by Atman has not been delivered to the Customer, Atman, at the request of the Customer, shall immediately resend the response, its duplicate or a copy. The Customer, in consultation with Atman, determines the manner, form and method in which the response to the complaint, its duplicate or copy is to be delivered. At the request of the Customer, in the event of refusal to accept the complaint in whole or in part, Atman again provides the response to the complaint, its duplicate or a copy by registered mail, regardless of the form in which the response to the complaint was originally sent. Atman is not obliged to provide the Customer with a response to the complaint, a duplicate or a copy thereof, if it is clear from the circumstances of the case that the response to the complaint was delivered to the Customer.

§ 7

Data Processing

1. Atman warrants and represents that, for the purpose of the performance of the Agreement, it processes personal data such as: first and last names, e-mail addresses and telephone numbers of the persons indicated in the Agreement to be the contact persons of the Customer (hereinafter: Personal Data) in accordance with the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (hereinafter: GDPR).
2. Further, Atman warrants and represents that: (i) it processes the Personal Data solely throughout the term of the Agreement and for the purpose of the performance thereof under art. 6.1.b) GDPR; (ii) it has bound its employees and co-workers or subcontractors that have access to the Personal Data to keep confidentiality of such data and to observe the personal data protection mechanisms provided for under the GDPR; (iii) it has implemented organizational and technical measures to secure the Personal Data; (iv) if possible, it will return to the Customer or destroy all the Personal Data immediately upon the termination or expiry of the Agreement, unless it is obliged to retain such data thereafter under the applicable laws; (v) it will immediately notify the Customer of any security breach affecting the Personal Data and assist the Customer in remedying such breach; (vi) if necessary, it will help the Customer to answer any individual requests by natural persons in the exercise of their rights under the GDPR.
3. The Customer shall notify Atman of the fact of data processing subject to personal data protection laws. If it is necessary to entrust Atman with the processing of such data, the Parties shall sign an appropriate personal data processing agreement.

§ 8

Miscellaneous

1. Atman reserves the right to amend the Regulations to the extent permissible by laws in force. Any amendments enter into force within 14 days of publishing thereof on the website.
2. In the event of an amendment to the Regulations for reasons other than resulting from the obligations imposed by laws, the Customer may refuse to accept such amendments and shall notify Atman thereof in writing. In this case, the agreement is terminated as of the end of the Settlement Period when Atman was notified by the Customer of its refusal to accept the amendments to the Regulations.
3. Any legal relationships hereunder shall be governed by the Polish law. Any disputes will be resolved by the Court having jurisdiction over the registered office of Atman.
4. The Customer may not transfer its rights and obligations under the Agreement to any third parties without approval of Atman.
5. Atman may state the name of the Customer in advertising, marketing materials and in Atman's letters of reference.
6. The applicable laws apply to any issues not governed by these Regulations.

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