

General Terms and Conditions of Use of Microsoft Software

This document governs the use of Microsoft software, which may include associated software, media, printed materials, and “online” or electronic documentation (individually and collectively, “Products”) provided by Atman sp. z o.o. (hereinafter referred to as “Atman”). Atman is not the owner of the Products and the use thereof is subject to certain rights and restrictions of which Atman is obliged to inform the Customer. The Customer’s right to use the Products is subject to the terms of the Customer’s agreement with Atman, and the Customer’s understanding of, compliance with, and acceptance of the following terms and conditions, which Atman does not have authority to vary, alter, or amend.

1. DEFINITIONS

“*Atman Software*” – means software that is installed on a Device that allows the Device to access or utilize the Products.

“*Device*” – means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, “smart phone,” server or any other hardware where software can be installed that would allow Customer to interact with the Product.

“*Customer*” – means an individual or legal entity that obtains Software Services directly from Atman, or indirectly through a Software Services Reseller.

“*Redistribution Software*” – means the software described in Section 4 (“Use of Redistribution Software”) below.

“*Software Services*” – means services that Atman provides to the Customer that make available, display, run, access, or otherwise interact, directly or indirectly, with the Products. Atman must provide these services from data center(s) through the Internet, a telephone network or a private network, on a rental, subscription or services basis, whether or not Atman receives a fee. Software Services exclude any services involving installation of a Product directly on any Device of the Customer to enable the Customer to interact with the Product.

2. OWNERSHIP OF PRODUCTS

The Products are licensed to Atman from an affiliate of the Microsoft Corporation (collectively “Microsoft”). Microsoft Products are protected by copyright and other intellectual property rights. Products and other Product elements including but not limited to any images, photographs, animations, video, audio, music, text and “applets” incorporated into the Products are owned by Microsoft or its suppliers. The Customer may not remove, alter or obscure any copyright trademark or other proprietary rights notices that are contained in or on the Products. The Products are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. The Customer’s possession, access, or use of the Products does not transfer any ownership of the Products or any intellectual property rights to the Customer.

3. USE OF ATMAN SOFTWARE

The Customer may use the Atman Software installed on the Customer’s Devices only in accordance with the Customer’s agreement with Atman and the terms under this document, and only in connection with the Software Services, provided to the Customer by Atman. The terms of this document permanently and irrevocably supersede the terms of any Microsoft End User License Agreement that may be presented in electronic form during the installation and/or use of the Atman Software.

4. USE OF REDISTRIBUTION SOFTWARE

In connection with the Software Services provided to the Customer by Atman, the Customer may have access to certain “sample,” “redistributable” and/or software development software code and tools (individually and collectively “Redistribution Software”). The Customer may use, copy and/or install the Redistribution Software only in accordance with the terms of the Customer’s agreement with Atman and this document, and/or the Customer’s agreement with Atman.

5. COPIES

The Customer may not make any copies of the Products; however, the Customer may (a) make one copy of Atman Software on the Customer's Device as expressly authorized by Atman, and (b) make copies of certain Redistribution Software in accordance with Section 4 (Use of Redistribution Software). The Customer must delete or destroy all such Atman Software and/or Redistribution Software upon termination or cancellation of the Customer's agreement with Atman, upon notice from Atman or upon transfer of the Customer's Device to another person or entity, whichever occurs first. The Customer may not copy any printed materials accompanying the Products.

6. LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY

The Customer may not reverse engineer, decompile, or disassemble the Products, except and only to the extent that applicable law, notwithstanding this limitation, expressly permits such activity.

7. NO RENTAL

The Customer may not rent, lease, lend, pledge, or transfer or distribute the Products, directly or indirectly, to any third party, nor permit any third party to have access to and/or use the functionality of the Products except for the sole purpose of accessing the functionality of the Products in the form of Software Services in accordance with the terms of this agreement and any agreements between the Customer and Atman.

8. TERMINATION

Without prejudice to any other rights, Atman may terminate the Customer's rights to use the Products if the Customer fails to comply with these terms and conditions. In the event of termination or cancellation of the Customer's agreement with Atman or Atman's agreement with Microsoft under which the Products are licensed, the Customer must stop using and/or accessing the Products, and destroy all copies of the Products and all of their component parts within thirty (30) days of the termination of the Customer's agreement with Atman.

9. NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT

Microsoft disclaims, to the extent permitted by applicable law, all warranties and liability for damages by Microsoft or its suppliers for any damages and remedies whether direct, indirect or consequential, arising from the Software Services. Any warranties and liabilities are provided solely by Atman and not by Microsoft, its affiliates or subsidiaries.

10. PRODUCT SUPPORT

Any support for the Software Services is provided to the Customer by Atman or a third party on Atman's behalf and is not provided by Microsoft, its suppliers, affiliates or subsidiaries.

11. NOT FAULT TOLERANT

The Products are not fault-tolerant and are not guaranteed to be error free or to operate uninterrupted. The Customer must not use the Products in any application or situation where the Product(s) failure could lead to death or serious bodily injury of any person, or to severe physical or environmental damage ("High Risk Use").

12. EXPORT RESTRICTIONS

The Products are subject to U.S. export jurisdiction. Atman must comply with all applicable laws including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information, see <https://www.microsoft.com/exporting/>.

13. MICROSOFT AUDIT

In the event that Microsoft audits Atman for services provided using Microsoft software, the Customer agrees to cooperate fully with Atman in connection with the audit of the services the Customer uses and, if the Customer is found to have breached the terms of use of the Microsoft software, to pay any costs or damages or penalties that Microsoft may impose on Atman as a result of such breach.

14. ATMAN AUDIT

Atman has the right to audit the Customer's use of the Microsoft Software. The Customer agrees to cooperate fully with Atman's audit of the Customer's use of the Software and, if the Customer is found to have breached the terms of use of Microsoft Software, to pay any costs, damages or penalties that Microsoft may impose on Atman as a result of such breach.

Notwithstanding the provisions of Section 8, Atman shall have the right to terminate the Customer's agreement with Atman at any time without notice if the Customer breaches any of the provisions of these terms and conditions, including, without limitation, if the Customer fails to cooperate with Atman in connection with audits.

15. LIABILITY FOR BREACH

The Customer bears full responsibility for non-compliance with the Microsoft End User License Terms (EULT). The Customer is obligated to immediately notify and consult with Atman regarding the need to install any Microsoft software in order to determine the conduct consistent with the terms and conditions of license for such Microsoft software, and in the event of a breach of this obligation, the Customer is be obliged to bear the responsibility for such breach, including the obligation to pay any costs or damages and penalties imposed by Microsoft on Atman as a result of such breach.

In addition to any liability the Customer may have to Atman, the Customer agrees that the Customer shall also be directly liable to Microsoft for any breach of these terms and conditions.

16. INFORMATION DISCLOSURE

The Customer must permit Atman to disclose any information requested by Microsoft pursuant to its agreement with Atman. Microsoft is an intended third-party beneficiary of the Customer's agreement with Atman, with the right to enforce the provisions of the Customer's agreement with Atman and to verify the Customer's compliance.

17. PRICE CHANGE

In the event that Microsoft changes the prices of software licenses, Atman has the right to update the prices of the software licenses covered by the Agreement upon 30 days' notice to the Customer. The price change does not require an amendment and becomes effective on the first day of the next billing period following the date of notification to the Customer, unless a different date is specified in the notification.

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