

  
**TERMS OF HOSTING SERVICES**

**§ 1. Definitions**

1. As used in these Terms, the following terms shall have the following meanings:

- a. **Service Provider or Hosting Provider** - AFTERMARKET.PL LIMITED with its registered office in Cyprus at the following address: Chytron 3, Office 301, P.C. 1075 Nicosia, Cyprus, entered into the Registry of Companies maintained by the Minister of Trade, Industry and Tourism under number HE 245422, which is a hosting services provider.
- b. **General Terms of Service** - General terms of service of the aftermarket.pl website, available at: <http://aftermarket.pl>
- c. **Terms** - these Terms available at: <http://aftermarket.pl>
- d. **Agreement** - the Hosting Service Agreement.
- e. **Price List** - a list of fees and charges related to the use of the Hosting Service and the rules of their calculation.
- f. **Subscription Period** - the billing period for which the User pays the Subscription Fee in advance to the Service Provider.
- g. **Subscription Fee** - a cyclic fee specified in the Price List, paid in accordance with the General Terms of Service by the User to the Service Provider for providing the Hosting Service.
- h. **User or Subscriber** - a natural person, a legal person or an organizational unit with no legal personality but which is granted legal capacity under the law, which uses the Hosting Service provided by the Service Provider under the Hosting Service Agreement.
- i. **Hosting Service** - a service provided by the Service Provider to the User, consisting in providing the User via the Internet with a part of the server disk space and launching specific services on it in accordance with the parameters of the given Hosting Service, which are given in the Service specification as set out on the Service Provider's websites.
- j. **Spam** - information sent electronically, which was not ordered by the recipient, e.g. unsolicited commercial information.
- k. **Order** - placement by the Subscriber of an order for Hosting Services provided by the Hosting Provider, regardless of the form in which it was made.

2. All capitalized terms which are not defined in clause 1 above, have the meanings assigned to them in the General Terms of Service. In case of any discrepancies between a definition of a term provided in the Terms and a definition in the General Terms of Service, the meanings provided in clause 1 above shall prevail.

## § 2. General Provisions and Conclusion of Agreement

1. The Hosting Provider provides the Subscriber with the Hosting Services on the terms set out in the Terms and the Agreement. The provisions of the Terms define the rights and obligations of the Parties to the Agreement.
2. The Agreement may be concluded in electronic form. In particular, the Agreement may be concluded by the Activation of the Hosting Services, which occurred after the Order was received by the Hosting Provider.
3. Placement of an Order is tantamount to the conclusion of an agreement between the User and the Service Provider for the provision of the Hosting Service under the conditions set out in the Terms for the duration of the Subscription Period. Upon the conclusion of the Agreement, the Service Provider is referred to as the Hosting Provider and the User is referred to as the Subscriber.
4. The Hosting Provider activates hosting services after receiving an Order from the User, which includes at least: an unambiguous indication of the ordered package of the Hosting Services, the User's data and contact details. If the Order is placed by a User who is a Consumer, the Order also includes a statement of the User who is a Consumer about the consent to start the provision of the Hosting Services before the end of the 14-day period for withdrawal from the Agreement.
5. By placing the Order for the Service, the User accepts the Terms and the General Terms of Service, and if the Services are covered by terms of promotion, the User also accepts such terms. In addition, the User makes a statement that he/she consents to the processing of personal data by the Service Provider to the extent necessary for the proper performance of the Service and also consents to the forwarding of the personal data and entrusting its processing to other entities for the purpose and to the extent necessary for the proper and due provision of the Service, such entities including the Service Provider's partners, Domain Name Registries and entities belonging to the same capital group as the Service Provider. The User also declares that he/she has been informed about the right to access his/her personal data and the right to rectification, erasure or restriction of processing of the personal data, the right to data portability and the right to lodge a complaint regarding the processing of the personal data with the President of the Personal Data Protection Office and to raise objection with the Service Provider to the processing of his/her data, in cases specified by law concerning personal data protection.
6. When placing an Order, the User agrees that VAT invoices issued by the Service Provider in connection with the provision of Services will be sent and provided to him/her/it in electronic form.
7. Subject to the provisions of clause 10 below, the Hosting Service is activated for a trial period whose length is indicated when the Order is placed, which is counted from the date of placing the Order for the Hosting Service. The Consumer declares that he/she requests that the Service be activated before the expiry of the 14-day period from the date of a correctly placed order.
8. The Agreement is concluded for a period defined in the Subscription Periods as indicated in the Price List for Services and settled in these Periods, unless the Agreement provides otherwise.

9. The conclusion of the Agreement is confirmed by an invoice issued by the Hosting Provider, which includes the Subscription Fee for the first Subscription Period, in the amount set forth in the Price List for Services.
10. The Hosting Provider has the right to activate the Hosting Services or to enter the Domain Names of the Subscriber into the servers of the domain name system after the payment of the Subscription Fee by the Subscriber.
11. The Hosting Provider stipulates that before the activation of the Hosting Service it has the right to verify the Subscriber's data, which was provided in the Order, and to request confirmation of the truthfulness of the data provided in the Order in accordance with the General Terms of Service.
12. The Service Provider shall be entitled to refuse to conclude the Agreement or to terminate the Agreement with immediate effect without notice in the event that:
  - a. the User has been deprived of the right to use the Website on the terms set out in the General Terms of Service,
  - b. the Service Provider has earlier terminated an agreement with the User as a result of circumstances attributable to the User,
  - c. the User provided false data in the Order and despite being requested by the Service Provider to confirm the data in accordance with the General Terms of Service, has not fulfilled this obligation or has still not provided the correct data,
  - d. the Service Provider has a reasonable concern that the Services will be used for purposes that are illegal or infringe rights or interest of third parties, or to commit prohibited acts, or in a way that prevents or disrupts the use of the Services by other Users.

### **§ 3. Rights and Obligations of Parties to Agreement**

1. Pursuant to the Agreement concluded in accordance with the Terms, the Hosting Provider is obliged to enable the Subscriber to use the Hosting Services ordered by him/her/it, and the Subscriber is obliged to pay the Subscription Fees on time. The obligations of both parties to the Agreement are set out in detail in this section.
2. By concluding the Agreement, the Subscriber undertakes with respect to the Hosting Provider:
  - a. to provide up-to-date and correct contact details and keep the details up to date,
  - b. to use the Hosting Services in accordance with the rules set out in the Terms and generally applicable laws, including the principles of community life, good custom, and to use the Hosting Services in a manner that does not infringe the rights of third parties, in particular their personal interest, and that does not infringe intellectual property rights,
  - c. to cooperate in combating unlawful activities of Users, to whom/which the Subscriber makes the Hosting Services available, and in particular to disclose data enabling identification of a specific User at the request of competent public authorities,

- d. to refrain from placing files, scripts or programs on the server, which may disrupt the operation of links, servers, websites or other devices or websites of other Users or third parties,
  - e. not to use the Hosting Services to send Spam, in particular it is forbidden to use address databases purchased via the Internet to send e-mail, use the address databases obtained in another way without obtaining prior consent from everyone whose address is in the address database and to mass mail using other means of electronic communication without obtaining documented consent of the recipient to receive such mail,
  - f. not to send, by himself/herself/itself or through third parties, Spam in any way referring to resources stored on the Hosting Provider's servers, including not to send the Spam referred to above using third parties,
  - g. to refrain from attempting to unlawfully access the electronic systems of the Service Provider or other devices on the Internet, and from attempting to prevent or interfere with the use of the Service Provider's system or hardware resources by other Users (for example: Distributed Denial of Service attacks; phishing; breaking or violating the security of any systems, servers, e-mails, web pages; changing e-mail headers in a way that prevents or hinders their reaching the recipient or the sender; promoting or publishing tools created for illegal activities, including hacking electronic security, such as tokens, keys, passwords, credit card numbers, etc., promoting or publishing information about illegal activities, including illegal hacking, phishing, cracking, etc.),
  - h. not to use the Service to commit a prohibited act within the meaning of applicable laws or to provide unlawful content, and to disseminate erotic, pornographic, racist or discriminatory messages, and also not to store or disclose content generally considered offensive,
  - i. not to publish or share content that violates the rights of third parties, in particular copyrights.
  - j. not to misuse the Hosting Services for activities outside the purposes of the Service, as defined in the acceptable use policy published by the Service Provider.
3. The Subscriber bears sole, unlimited liability for the manner of using the Hosting Services provided to him/her/it by the Hosting Provider.
  4. In the event of receiving an official notification of unlawful nature of data stored on the server by the Subscriber or the User, or activities related to such data, the Hosting Provider has the right to prevent access to such data and block the provision of the Hosting Services. In connection with the above action, the Hosting Provider shall not be liable to the Subscriber or the User for damage caused as a result of preventing access to such data.
  5. By accepting the Terms, the Subscriber declares that he/she/it agrees to modification of global or individual parameters of a hosting account by the Hosting Provider, if these actions are aimed at increasing the quality and security of services.

#### **§ 4. Subscription Fees**

1. The Hosting Provider shall be entitled to the Subscription Fee for the provision of the Hosting Services to the Subscriber. The amount of the Subscription Fee shall be determined on the basis of the Hosting Provider's Price List in force on the day of placing the Order.
2. The Subscription Fee is only a payment for the possibility of using the Hosting Services.
3. The Subscription Fee is charged for the entire Subscription Period in advance.
4. The Subscriber shall pay the Subscription Fee, which is indicated on the User's Account. The Subscription Fee invoice is delivered via e-mail sent to the address indicated when the Order was placed.
5. The Subscription Fee is indivisible, which means that it cannot be paid for a period shorter than the length of the selected Subscription Period.
6. Subject to clause 7 below, the Subscription Fee is not refundable in the event of termination of the Agreement by the Subscriber.
7. The Subscription Fee paid is refundable only proportionally – taking into account the duration of providing the Hosting Services by the Hosting Provider to the Subscriber – in the following cases:
  - a. termination of the Agreement by the Hosting Provider, except for termination caused by improper use of the services by the Subscriber, or
  - b. the Subscriber is a Consumer.
8. During the last month of the Subscription Period for which the payment was made, the Hosting Provider shall inform the Subscriber about the amount of the Subscription Fee for the next Subscription Period. When the Payment for the next Subscription Period is made by the Subscriber by the deadline set by the Hosting Provider, the Agreement shall be extended for the next Subscription Period as specified in the Hosting Provider's information. If the payment for the next Subscription Period is not received, the Hosting Provider shall be entitled to suspend the provision of the Hosting Services until the Subscriber pays the Subscription Fee.
9. If the Subscriber fails to pay the Subscription Fee for the next Subscription Period within 21 days from the day indicated by the Hosting Provider, the Hosting Provider shall be authorised to delete the configuration of the Hosting Services, accounts created by the Subscriber and all data stored in respect of these accounts. The Agreement shall expire upon the deletion of the configuration, accounts and data referred to in the preceding sentence by the Hosting Provider. In the case of an Agreement concluded with a Consumer, the effects provided for in this provision arise after the expiry of an additional payment deadline set by the Hosting Provider in the request for payment of the Subscription Fee.

#### **§ 5. Limitation and Suspension of Hosting Services**

1. The Hosting Provider shall have the right to indefinitely block all or some of the Hosting Services to the Subscriber, in particular the right to block the use of certain databases, scripts, e-mail and http services without prior notice in the following cases:
  - a. an overload of the server or other infrastructure elements provided by the Hosting Provider,
  - b. there is probability that the Subscriber will cause a failure, including interruptions or disruptions to the Services,
  - c. non-compliance with the Terms, in particular §3, for example by sending unsolicited or unwanted messages (Spam),
  - d. publishing or sharing content prohibited by generally applicable law.
2. In the case referred to in section 1 above only, the Consumer shall be entitled to a partial refund of the Subscription Fee in respect of the period in which the Hosting Services were not provided.
3. The Hosting Provider shall be obliged to notify the Consumer about its intention to take actions specified in clause 1 above and the reason for it, subject to the provisions of the Terms.
4. The Hosting Provider stipulates that, for the reasons of security of other users of the Services, in addition to hosting account parameters, limits can be imposed on the amount of server resources that the Subscriber can utilize with connection to the Hosting Service.

## **§ 6. Managing Hosting Services**

1. The Hosting Provider provides the Subscriber with administrative tools for remote management of the individual Hosting Services. Depending on the type of the purchased Hosting Services package, the Hosting Provider enables the Subscriber to use administrative tools that allow, among other things, to:
  - a. manage domain names and configure the Hosting Services,
  - b. manage lower-level domain names and configure the Hosting Services,
  - c. manage all postal services in the domain name,
  - d. manage a single email account.
2. Access to administrative tools is possible via a web browser, after entering the access data (Login and Password). The Subscriber agrees to protect the access data in a way that prevents its use by unauthorized third parties.
3. The Subscriber may authorize third parties to use the administrative tools.
4. Entering and updating the Subscriber's data, selecting and accepting payment methods and checking the status of payments is carried out via the User Account.
5. The Hosting Provider shall not be liable for the consequences of using administrative tools by third parties, for reasons beyond the Hosting Provider's control or occurring through the sole fault of the aggrieved party. The Hosting Provider agrees to take reasonable steps to protect the data collected on the User's Account against access by third parties and against unauthorized use of the User's Account.

## **§ 7. Rules of Liability of the Hosting Provider**

1. The Hosting Provider shall be liable for damage done to the Subscriber caused by failure to perform or improper performance of the Agreement, unless the failure to perform or improper performance of the Agreement results from circumstances for which the Hosting Provider is not liable. The Hosting Provider shall in no event be liable for damage the value of which exceeds the value of the Subscription Fees in the Subscription Period in which the damage occurred. The limitation of liability indicated in the preceding sentence does not apply to agreements concluded with the Consumers.
2. The Hosting Provider is obliged to make every effort to ensure that the Hosting Services are provided on a permanent, uninterrupted basis and at the highest level. However, the Hosting Provider shall not be liable for any direct, indirect, accidental, consequential, special or moral losses (even if the occurrence of such damage was foreseeable or the Hosting Provider had been notified or had knowledge of the possibility of their occurrence) resulting from the fulfilment or non-fulfilment of any of the conditions of the Agreement or the Terms (including damage incurred by the Users).
3. The Subscriber who is not a Consumer may pursue claims against the Hosting Provider in court only after the complaint procedure has been exhausted.
4. The Hosting Provider shall not be liable for any loss of the access data necessary to manage the Hosting Provider's Services or for its use by an unauthorized person.

#### **§ 8. Termination of Agreement**

1. The Agreement may be terminated by either Party with a three-month's notice period, effective as at the end of the calendar month.
2. Regardless of the form in which the Agreement was concluded, termination of the Agreement must always be made in writing to be valid.
3. The Subscriber who is a Consumer has the right to terminate the Agreement by submitting a written declaration of withdrawal from the Agreement within 14 days from the date of its conclusion. The template of the declaration of withdrawal from the Agreement in accordance with the procedure specified in the preceding sentence is attached to the Terms.
4. The Hosting Provider has the right to terminate the Agreement with immediate effect and cease to provide the Hosting Services, if:
  - a. the Subscriber breaches the provisions of the Terms or the Agreement,
  - b. the Subscriber breaches applicable laws,
  - c. the Subscriber uses the Hosting Services contrary to their intended use,
  - d. the Hosting Services are used to inflict damage to the Hosting Provider or other customers or users.
5. The Hosting Provider informs the Consumer in writing about its intention to take the actions specified in this section, indicating the breaches committed and setting a deadline of at least 7 days for ceasing them, however, the Hosting Services may be discontinued before the expiration of the deadline, if their continuation meets the conditions referred to in section 4 letter b) or c). If the Subscriber does not cease the breaches specified above despite the deadline set, the Hosting Provider has the right to terminate the Agreement with immediate effect and to cease to provide the Hosting Services.

## § 9. Final Provisions

1. The Service Provider reserves the right to amend the Terms or to publish new Terms in the following cases:
  - change of the law, including provisions regarding consumer protection,
  - change of the technical conditions of providing the Service,
  - change of the terms and prices of services provided by third parties to the Service Provider, which are necessary to provide the Services,
  - change of the range of the Services provided,
  - organizational changes or legal transformations of the Service Provider, including a change of the ownership of the Service Provider.
2. In the event of an amendment to the Terms, the Service Provider is obliged to inform the User about the amendments at least fourteen days before the date of their entry into force by post or via e-mail sent to the address given during the Registration. The provisions of the new Terms shall bind the other Party if it does not submit an offer of early termination of the Agreement. The User who is a Consumer has the right to submit an offer of early termination of the Agreement within 14 days from the moment of notification by the Service Provider about the amendments to the Terms. In case of a User who is not a Consumer, the period is 7 days. The offer should be made in writing; this requirement does not apply to the Consumers. In the case of effective submission of the offer, the Service Provider has the right to accept such an offer and reimburse fees in proportion to unused performance, and in the case of the Entrepreneurs, the Service Provider has the right to reject such an offer and further provide the Hosting Service on current terms until the end of the current Service Subscription Period. The Service Provider shall provide information concerning this matter to the User in writing, sending an e-mail to the address given during the Registration.
3. Amendments to the Terms resulting in cessation of the provision of Hosting Services shall enter into force after the end of the Subscription Period.
4. The provisions of the Terms shall be applied taking into account mandatory laws which regulate legal relations with consumers.
5. To all matters not settled in the Terms or the Agreement, the General Terms of Service and the laws of Poland shall apply.
6. The contact details of the Service Provider are available at: <http://aftermarket.pl>.
7. The Terms shall enter into force on 1.04.2023.