

- General Terms and Conditions for telecommunication and information services (hereinafter: General Terms and Conditions) are general terms and conditions of the company TUŠMOBIL d.o.o. (hereinafter: TMB) and define the terms, scope and the method of provision of services, rights and obligations of TMB and the subscribers as well as users of services.
- Services governed by these General Terms and Conditions are the following:
  - web-hosting services,
  - server-hosting services.
- The relationship between TMB and the Subscriber is in addition to the legislation and statutes in force also governed by the Subscription Agreement concluded between the parties, of which these General Terms and Conditions are an integral part and are incorporated therein by reference. General Terms and Conditions supplement the special arrangements between the parties and as a rule bind the parties in the same manner as the agreement. In case of conflict between the Agreement and these General Terms and Conditions, the Agreement shall prevail.

### **1. Rights and obligations of the parties**

- Both parties actively and without undue delay notify each other of all facts that affect the validity of the Agreement or any provision of the Agreement, or to the possibility, quality or conditions of the performance of any obligation pursuant to the Agreement or these General Terms and Conditions.

#### *Rights and obligations of the TMB*

- TMB performs all services under the conditions and compliant with the prices as set out in the agreement and appropriate Pricelist.
  - TMB provides the Subscriber with uninterrupted use of services in the scope and under the conditions set out in the Agreement and applicable Pricelist.
  - TMB shall execute the change in service parameters requested by the Subscriber and agreed upon by the Provider in the period defined for implementation of such changes and compliant with the Pricelist.
  - TMB is not liable for any loss, damage, alienation or change in data, records or applications which the Subscriber sends, receives, transfers or keeps within the TMB network or the equipment connected to such network.
  - TMB may from the Subscriber request removal of any data that could be disputable, damaging, malicious or would violate any rights protected by law or statute. In case the Subscriber fails to remove such data in the period defined in TMB's request for removal, TMB has the right to either delete such data from servers that are part of the TMB's infrastructure or otherwise make such data inaccessible from external internet.
  - TMB is not responsible for anything published on the internet.
  - TMB shall keep the its network ICT infrastructure in such condition and shall maintain such quality of service that the provided services shall be compliant with applicable technical and operational standards and conditions and provisions of the Agreement.
  - TMB shall as soon as possible and at its own expense repair any malfunction of the service obviously caused by TMB. TMB shall also repair any service malfunction which shall be in full or in part caused by the subscriber, at the Subscriber's expense and under the conditions separately agreed between the Subscriber and the Provider in each individual case.
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- TMB shall inform the Subscriber of any and all loss of functionality, disruptions of service, changes or errors which are known to TMB in advance, on its web-site <http://www.tushosting.si> or in writing or by e-mail at least 24 hours in advance of the planned disruption.
- TMB shall provide a 24/7 Customer support centre for customer support and error reporting.

### Rights and obligations of the Subscriber

- The subscriber shall NOT:
  - attempt to render unusable or hinder the use of TMB's services to other users;
  - cause technical interference;
  - access or attempt to access information systems or passwords for such systems, for the access of which the Subscriber is not authorised.
- The Subscriber shall:
  - secure the passwords for use of TMB's services against disclosure and/or unauthorised use;
  - with use of TMB's services act compliant with copyrights and other IP rights.

The Subscriber shall use the services compliant with these conditions and in such manner so as to ensure compliance with all applicable laws and statutes.
- The subscriber shall ensure that all software and hardware supplied by the Subscriber and connected to TMB's network has appropriate technical and safety certificates. The Subscriber is responsible for the condition of its own telecommunications equipment connected to TMB's infrastructure, including the setup of parameters.
- The Subscriber shall notify TMB of any and all changes of its data listed in the subscription Agreement no later than in 15 days from when such change took place. All financial and other consequences which would occur due to failure to notify shall burden the Subscriber.
- The subscriber shall with expiration of the Agreement return TMB's equipment in the condition received from TMB, save for reasonable wear and tear. The Subscriber shall return such equipment in 8 days from the day the Agreement expires or TMB requests the return. In case of delay, the Subscriber shall pay the contractual penalty in the amount twice the value of the equipment subject of the return policy. The value of the equipment is equivalent to the amount stated on the invoice for such equipment or other document similar in nature. The payment falls due in 8 days after the period for return has expired. After the period for the return of equipment has expired, TMB may either request return of equipment and payment of the contractual penalty or payment of the value of the equipment and the contractual penalty.

### Rights of the parties

- TMB may transfer the agreement to a third party.
  - TMB may limit or terminate the service for technical, operative or legal reasons which prevent the provision of the service, or may terminate or limit the service in case any of the Subscriber's payments is more than 30 days overdue. TMB may re-activate the Subscriber's services when the reasons for disconnection have expired. If the reasons for disconnection are on Subscriber's side, TMB shall perform the re-connection at Subscriber's cost.
  - TMB may charge the Subscriber the late-payment interest charge as well as late-payment notice charge, complaint with the statutes that govern late payments.
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- TMB may change the Subscriber's access data or other parameters needed for the Subscriber to access the services. Such change, with all necessary data, shall be provided to the Subscriber at least 30 days in advance of the change.

## **2. Payment conditions**

- TMB shall issue invoices for services rendered compliant with the prices and rules defined in the pricelist.
- The Subscriber may either in writing or via fax order itemized list of services rendered in the current billing cycle. Itemized list is charged according to TMB's pricelist.
- TMB may change or amend the prices, rates or the structure of charging listed in the Pricelist.
- Except if set out differently in the Agreement, the billing cycle is one month and the Subscriber shall pay the invoiced amount in eight days after the issue of the invoice, unless stated differently in the Agreement.
- Services are invoiced for the then current billing cycle, unless differently agreed in the Agreement.
- Services are invoiced compliant with the Agreement. Any change in the service fee related to a change in service is charged according to the Agreement.
- In case the Subscriber does not receive the invoice until 15<sup>th</sup> day of the month, the Subscriber shall notify TMB of the delivery failure. In case the Subscriber fails to notify TMB of delivery failure, the invoice shall be considered to have arrived in 5 days after being posted.

## **3. Term and termination**

- TMB may refuse to enter into agreement without stating the reason for doing so. TMB shall notify the potential client of its refusal no later than in 8 days after receipt of the signed Agreement from the potential client. In case TMB decides to enter into Agreement with the potential subscriber, TMB shall send the Subscriber's copy of the signed Agreement to the Subscriber.
  - TMB may terminate the Agreement in case the Subscriber violates the provisions of these General Terms and Conditions, or the Agreement or valid legislation or statutes in force.
  - The agreement may be changed or amended by the following methods only:
    - by adding a new schedule or annex to the Agreement which amends, changes or replaces the previous annex or schedule or provision of the Agreement and is signed by the duly authorised representatives of both parties,
    - by numbered annexes in written form, signed by the duly authorised representatives of both parties.
  - TMB may in case of a severe violation of either these General Terms and Conditions, the agreement or legislation or statutes in force, terminate the Agreement without notice, with immediate effect.
  - Severe violation under these General Terms and Conditions is any of the following:
    - the Subscriber is more than 20 days late for payment of the invoice or part of the invoice issued for the services rendered,
    - the Subscriber caused serious damage or theft of TMB's equipment,
    - the Subscriber endangers the integrity or safety of the network,
    - the Subscriber uses TMB's equipment contrary to the terms of the Agreement or the General Terms and Conditions or the legislation or statutes in force,
    - the Subscriber continues with violations of the terms of the Agreement or the General Terms and Conditions or the legislation or statutes in force even after being notified of such violation by TMB.
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- After the Agreement is terminated, the Subscriber returns to TMB all equipment owned by TMB. The parties shall settle any outstanding obligations in 30 days after the Agreement is terminated.

#### **4. Claims**

- The Subscriber may dispute an issued invoice in 8 days from receipt. If an invoice is not disputed in said period, such invoice is considered valid and no dispute is allowed concerning its amount or items charged.
- TMB shall decide on the merits of the dispute in 15 days after the receipt of a dispute and shall notify the Subscriber of its decision.
- Submission of a dispute does not delay payment of invoiced amounts. In case TMB agrees with the merits of the dispute concerning the amount or the method of charging as presented by the Subscriber, TMB shall reimburse the Subscriber for all overpaid amounts as evident from the dispute in 15 days from TMB's decision.
- The Subscriber may lodge a complaint against all other decisions and actions of TMB. Such complaint may be made in 15 days from the day the Subscriber became aware of the disputable action or decision of TMB. Complaint posted on the last day of the 15 day period by registered mail shall be considered to be entered on time. If the deadline for posting expires on Saturday, Sunday or holiday, the complaint may be posted on the next working day to be considered on time. TMB shall decide on the merits of the complaint on the grounds of the submitted records and the records of its own and may request the Subscriber to present its complaint in an interview. If TMB in 15 days after receipt of the complaint fails to answer such complaint or does not resolve such complaint favourably for the Subscriber, the Subscriber may file a complaint with the Agency for Post and Electronic Communications of the Republic of Slovenia in 15 days from receipt of the unfavourable decision of TMB or TMB's failure to answer.

#### **5. Liability**

- Notwithstanding anything to the contrary in these General Terms and Conditions, TMB is not liable for any damage caused by malfunction, repairs or maintenance of the network or part of the network. TMB is not liable for any incidental or consequential damage or loss of income.
  - Notwithstanding anything to the contrary in these General Terms and Conditions, TMB is not liable for the quality of service in case of force majeure (e.g. natural disasters...) or events that are as force majeure recognised by courts.
  - Immediately when the Subscriber recognises or TMB proves that the Subscriber caused any kind of damage suffered by TMB, the Subscriber shall in 15 days pay the appropriate amount of compensation to the bank account of the TMB, compliant with the limitations as defined in these General Terms and Conditions.
  - In case the limitation of liability in this Article 5 does not apply, immediately when TMB recognises or the Subscriber proves that TMB caused any kind of damage suffered by the Subscriber, the appropriate amount of compensation is used for compensating the Subscriber's outstanding liabilities toward the TMB. If such liabilities do not exist or their amount does not achieve the amount for compensation, TMB shall subtract the amount for compensation from the amount charged for TMB's services in the last billing cycle. If the amount for compensation still exceeds the compensated amounts, the remainder of the amount is transferred to the bank account of the Subscriber.
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- If the provision of services ceases prior to the payment of damages, TMB transfers the remainder of the amount for compensation to the bank account of the Subscriber in 15 days after the provision of services ceases.

## **6. Other provisions**

- All provisions of these General Terms and Conditions are interpreted compliant with the purpose for which the Agreement was concluded.
- In case any provision of these General Terms and Conditions or the Agreement is invalidated due to changes in legislation or decisions of authorised state bodies or decision of both parties, other provisions remain unaffected and in full force. The parties shall replace invalid provisions without undue delay.

## **7. Confidential information**

- The parties shall keep confidential all information and data compliant with the Data Protection Act, particularly all information about the other party listed in the Agreement and information that the parties came into possession for the duration of the Agreement. Such information may not be disclosed to a third person without a prior written consent of the other party and the parties shall take effective measures for the information not to be misused.

## **8. Communication between the parties**

- Responsibility for the communication between the parties is carried by the sender unless differently prescribed by these General Terms and Conditions.
- Usual informative communications may also be conveyed to the other party orally, by e-mail or similar.
- Notices concerning facts which may serve as grounds for claims may only be delivered in writing or in similar documented manner (by wax with return receipt, by registered mail) at the address of the other party. The contents of the communication must be sufficient so that the other party may quickly and effectively respond. At the negotiations concerning any claims, the parties may only refer to communication in such form as described in this paragraph.

## **9. Final provisions**

- TMB may change or amend these General Terms and Conditions. TMB shall notify its subscriber of such change by publishing the amended General Terms and Conditions on the website [www.tushosting.si](http://www.tushosting.si).
  - Amendments of the General Terms and Conditions do not affect the Agreements or parts of the Agreements which are already in their cancellation notice period.
  - In case of dispute, the parties shall undertake to resolve such dispute with negotiation and in mutual agreement. In case such agreement cannot be reached, the materially competent court in Ljubljana, Slovenia, has jurisdiction.
  - These General Terms and Conditions apply from 1. 6. 2007 until changed or amended.
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